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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 30 April 2019

2.30 pm

Prayers—read by the Lord Bishop of Birmingham.

Death of a Former Member: Baroness Lockwood

Announcement

2.35 pm

The Lord Speaker (Lord Fowler): My Lords, I regret to inform the House of the death of the noble Baroness, Lady Lockwood, on 29 April. On behalf of the House I extend our condolences to the noble Baroness's family and friends.

Defence: British Steel

Question

2.36 pm

Asked by ***Lord Hoyle***

To ask Her Majesty's Government what steps they are taking to ensure the use of more British steel in defence contracts.

The Minister of State, Ministry of Defence (Earl Howe) (Con): My Lords, the Government are committed to supporting the British steel industry and we have policy guidance in place to address any barriers that prevent UK steel producers competing effectively in the open market. We remain engaged with our prime contractors to ensure their support in implementing this. The Government also publish their future pipeline for steel requirements on GOV.UK, which enables UK steel manufacturers to better plan and bid for government contracts.

Lord Hoyle (Lab): I put it to the Minister that using more British steel would overcome the uncertainty in relation to Brexit. It would bring more prosperity to steel-producing areas and more job security for British steelworkers. Using only 40% British steel on defence projects is far too low. Surely we should be using 100% British steel in all our defence programmes.

Earl Howe: My Lords, looking at recent warship procurement programmes, it is generally true to say that steel has been sourced from abroad in cases where UK steel suppliers have not been able to produce steel to the required grade. If one sets that issue aside, UK producers have generally proved to be very competitive, as demonstrated by the Queen Elizabeth aircraft carrier programme, for which 88% of the structural steel was sourced from UK mills.

Lord Trefgarne (Con): My Lords, does my noble friend anticipate any difference to the defence procurement rules following Brexit?

Earl Howe: My Lords, at the moment, as my noble friend will know, it is a matter of law that all ships not classified as warships are procured through international competition. After we leave the EU, it will be open to us to decide whether to continue with that practice as a matter of policy, but we will be guided in our thinking by the need to strike the best balance between value for money and protecting national security.

Lord Brookman (Lab): My Lords, steelworkers throughout the country will be pleased that my noble friend Lord Hoyle has tabled this Question. It has been a long time coming round, but it will do so again and again. My noble friend and I have a great deal of respect for the trade union leadership in the steel industry, which covers all the various unions involved. They continually face capacity and manpower issues, a point touched on by my noble friend a moment ago. As a past general secretary of the Iron and Steel Trades Confederation—only five foot five inches tall and I got the job of general secretary of a steelworkers' union; just imagine that happening today—I know the problems and issues the officials face. They have been facing them for many years because this is not a new situation.

A noble Lord: Question!

Lord Brookman: I am just coming to my question. I recall a debate held some years ago in this Chamber in which the issue was raised. There were 19 speakers all talking in the same vein as we are today: save the steel industry, look after the jobs and get the people working. Someone came up to me afterwards and said—

A noble Lord: Question!

Lord Brookman: I am coming to it. He said, "Keith, that was all right, but you must realise that we live in a post-industrial society". If that is the case, we have a dim future in front of us.

Earl Howe: The noble Lord is absolutely right to point out that the UK steel industry has faced major challenges over the past three to four years, in particular from international competition and high infrastructure costs. Those challenges continue. But steel is one of this country's foundation industries, which is why we have supported the sector in a variety of ways. As it is an energy-intensive industry, we have made provision to support any additional costs incurred by carbon-reduction policies; we have the industrial strategy challenge fund; we are reviewing business rates; and we were instrumental in securing antidumping measures through the EU. Also, wherever possible, across government we attempt to buy British when it comes to steel.

Lord Sterling of Plaistow (Con): My Lords, in 2014 I commissioned a special document from the London colleges in connection with the value of defence procurement being sovereign and not overseas. The suggestion I read on Monday—that these three ships will be designated supply ships and therefore should be open to competition—is to my mind complete nonsense. In practice, they are supply ships going into action and have to be armed. Four of the countries of Europe, including France, are building very similar ships, which are designated as warships. It is absolutely ridiculous to consider otherwise. Also, it supports the view on steel, because some 100,000 tonnes of steel is involved. Further to that, it leads to jobs and, on the

[Lord Sterling of Plaistow]
education side, continues the drumbeat that we need to build up the manufacturing companies. Will the Government re-examine this issue? This is another example of the Treasury being in love with cost and not value for money.

Earl Howe: My Lords, I am afraid I cannot entirely agree with my noble friend. It is undoubtedly true that the Armed Forces benefit from the UK acquiring military capability from an open market. Competitive procurement ensures that we drive innovation and efficiency into our industrial base. UK suppliers' drive to be competitive in their home market will ultimately secure their prosperity, not only in the UK context but in the global marketplace as well.

Baroness Smith of Newnham (LD): My Lords, in the light of the *Financial Times* report that the company British Steel is pleading for carbon credit loans to tide it over Brexit, will the Minister explain what efforts are being put into defence procurement contracts to ensure that steel is being decarbonised as far as possible?

Earl Howe: My Lords, the industrial strategy challenge fund, which I mentioned earlier, is there to help industry drive innovation in its manufacturing processes. As I also mentioned, we have supported the industry with the costs associated with carbon reduction, which can in some cases be substantial. In those two ways in particular, we are doing our best to recognise the challenges that industry faces.

Children's Rights

Question

2.44 pm

Asked by ***Baroness Massey of Darwen***

To ask Her Majesty's Government what plans they have to develop a cross-departmental action plan to address the conclusions and recommendations of the United Nations Committee on the Rights of the Child's assessment of the United Kingdom in 2016, in order to ensure that all public bodies act to protect and promote children's rights.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, we remain strongly committed to delivering a framework of actions across government and with key organisations. We aim to continue to embed the importance of children's rights in policy-making across Whitehall. We have successfully delivered the majority of actions, including establishing a UNCRC action group and launching a children's rights training package and impact assessment template across the Civil Service. We are on track to deliver outstanding actions, including extending the UNCRC to Guernsey.

Baroness Massey of Darwen (Lab): I thank the Minister for that optimistic response. Does he agree that children's rights to health, education, justice, security and so on are of supreme importance? Does he further agree that although these areas do not come under one department but go across departments, only the Department for Education has a team of people working on children's rights? Would it not make sense if every department had a team of people working on children's rights so that they could talk to each other and develop a coherent plan? We have been criticised by the UN for not having such a plan. Is it not time for action?

Lord Agnew of Oulton: My Lords, we do not agree with the substantial machinery of government changes recommended by the UNCRC but we work across government all the time. I have to draw on many government departments for most of the answers that I give to noble Lords in this House. We are well joined up and we continue to emphasise that through initiatives such as the Civil Service learning programme which we introduced last year.

Baroness Chisholm of Owlpen (Con): Perhaps I may ask my noble friend for some specifics about the actions he mentioned in his first Answer. What exactly is happening and what concrete actions are being taken?

Lord Agnew of Oulton: My Lords, the civil servants' guidance that we issued at the end of last year was specifically aimed at supporting civil servants to join up. We created a template for civil servants to enable them to understand the children's rights impact. We have revised the statutory guidance for working together to safeguard children and we have co-chaired a new action group with the Children's Rights Alliance for England, CRAE, which brings together all of these issues.

Lord Storey (LD): My Lords, the Minister will know that the committee has called on the UK to urgently review the asylum policy as the UK is the only country in the EU not to permit unaccompanied refugee children to sponsor their immediate family. Given that the Government are searching for legislation to pad out the parliamentary term, will the Minister speak to his colleagues in the other place to see whether they can make time to give the Refugees (Family Reunion) Bill—which has already been passed in this House—its long-awaited Second Reading?

Lord Agnew of Oulton: I will certainly take the noble Lord's suggestion back to the department for consideration. Let me reassure noble Lords that the numbers of children becoming looked after from unaccompanied asylum seekers has remained stable over the past three years. Under Section 20 of the Children Act 1989, local authorities have a statutory obligation to provide accommodation for unaccompanied asylum-seeking children.

The Lord Bishop of St Albans: My Lords, the UNCRC states that the best interests of the child must be paramount in all decision making and yet evidence that our Benches are collecting shows that the two-child limit policy is having a substantially negative impact on those families affected by it. In the light of the Government's obligations under UNCRC, will the Minister undertake to commission independent research into the impact of the two-child limit policy on those families which are affected by it?

Lord Agnew of Oulton: I think the right reverend Prelate might be referring to the limits under the working tax credits. When that provision was brought through last year it was put in place simply to ensure that parents whose financial position had improved did not have a legacy benefit they no longer needed.

Baroness Lister of Burtersett (Lab): My Lords, why have the Government refused to introduce a statutory obligation to conduct a child rights impact assessment for every law and policy relating to children, as recommended by the UN committee?

Lord Agnew of Oulton: My Lords, it is important to remember that we are making huge progress on child poverty generally in this country, and therefore that is where our focus is. We have seen some 650,000 children move out of poverty since 2010.

Lord Hylton (CB): My Lords, if the number of asylum-seeking children in this country is stable, will the Minister explain why it has not been possible, so far, to take in the number provided for in the amendment moved by the noble Lord, Lord Dubs, three or four years ago?

Lord Agnew of Oulton: My Lords, I will have to seek advice from the Home Office and write to the noble Lord on that.

Lord Watson of Invergowrie (Lab): My Lords, the 2017 Conservative manifesto said:

"Britain should be the best country in the world for children".

Yet, as other noble Lords have said, today the UNHRC's recommendation on the child's rights action group or strategy still remains unfulfilled. The same manifesto also said that child poverty would be reduced but, despite what the Minister has just said, it is going in the opposite direction. Adding insult to injury, last year the role of Minister for Children and Families was diminished from Minister of State to Parliamentary Under-Secretary. In the circumstances, how can the Minister come to this House and tell us that the Government are committed to the interests of children?

Lord Agnew of Oulton: My Lords, I respectfully disagree with the noble Lord about child poverty. A child growing up in a home where all the adults are working is five times less likely to be in poverty than a child in a household where nobody works. In 2010, under the old Labour national minimum wage a person would have taken home £9,200 after tax and national insurance. Today, under the national living wage that person would take home £13,700. That is a dramatic increase for that family.

Baroness Uddin (Non-Afl): I note with concern the Minister's bipartisan dissent on the UNCRC report. Does he in principle agree with my noble friend Lady Massey of Darwen that the Government should take very seriously the ability to provide the very best for children and children's rights when they co-ordinate across departments, particularly when dealing with special needs children?

Lord Agnew of Oulton: I agree with the noble Baroness. Indeed, as I mentioned, the framework of actions that we have been taking following the observations by the UN in 2016 have been along those lines. We are working with Guernsey to bring it into the convention, and that should happen in the next few months.

Identity Cards

Question

2.52 pm

Asked by ***Lord Campbell-Savours***

To ask Her Majesty's Government what further discussions they have had, and with whom, about the benefits of the introduction of identity cards.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government have previously stated that the introduction of identity cards would be prohibitively expensive and would represent a substantial erosion of civil liberties. This remains our position and, as such, we have held no further discussions on the introduction of identity cards.

Lord Campbell-Savours (Lab): My Lords, do not last week's appalling statistics on the screening out by police forces of up to 80% of crimes such as burglary, mugging, theft, fraud, dangerous driving and even sexual offences ring alarm bells in government despite what the Minister has just said, and suggest that a national review is required of the investigative tools available to the police? Could such a review not consider the benefits of ID cards and protocols for the recording of fingerprints, iris recognition and even DNA, which would greatly help the police in the fight against crime?

Baroness Williams of Trafford: Of course the things the noble Lord mentioned latterly are all tools in the police's armoury in investigating and dealing with criminals. Incorporating that into an ID card that embraces all those things goes against civil liberties. We believe that identity should be provided for the purpose for which it is needed, not for everything but just for a single event.

Lord Marlesford (Con): Does my noble friend recollect that I have frequently said that the priority is not so much an identity card as a secure, reliable identity number to take the place of the unreliable, insecure, deeply corrupt national insurance numbers, national health numbers and so on? When will Ministers start to challenge the stubbornness of the Home Office in refusing to consider these issues? We had a disgraceful example of that stubbornness in the debate yesterday, with the point-blank refusal even to consider taking the necessary action to restore the reputation of Sir Edward Heath, which was trashed in Wiltshire.

Baroness Williams of Trafford: I am not sure how my noble friend's two points tie together. He talks about an identity number, and of course a national insurance number is a form of identity number. Certainly it proves a person's right to work in this country. I am

[Baroness Williams of Trafford]
not sure how a separate national identity number would add to the mix; nor am I sure how my noble friend thinks that national insurance numbers are corrupt, unless he is saying that they are used corruptly, but I am sure that the same would also potentially be true of national identity numbers.

Lord Paddick (LD): My Lords, the police are trialling new fingerprint technology that allows police officers to use their smartphones to identify people in less than a minute if they have a criminal record. Heathrow Airport is introducing voluntary facial recognition instead of passports and boarding passes. Does the Minister agree that identity cards are a bit old hat, as is the legislation to control the use of facial recognition and other biometric recognition, which is in urgent need of attention?

Baroness Williams of Trafford: The noble Lord makes a very good point about the new technologies that the police and airports are using. I heard about the trial of facial imagery at Heathrow Airport. Now, every time you go through a gate at an airport, a machine recognises you by your face. However, he is absolutely right that the governance of the use of facial imagery, fingerprints and the new emerging technologies has to be looked at very carefully.

The Earl of Erroll (CB): Does the noble Baroness's department have a corporate memory of the fact that during the war we had identity cards for three purposes? Soon after the war, these were extended to around 50 purposes. As a result, we had a bonfire of ID cards in about 1952, for very good reasons. We are not a country that likes being controlled by various authoritarian people.

Baroness Williams of Trafford: The noble Earl is absolutely right, and that was at the heart of our reason, in the coalition years, for resisting the idea of ID cards. He will of course know that I do not remember the war.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, does the Minister agree that the pass I am wearing is a very useful identity card in a sense but that we rely more on the skills of the doorkeepers and the people who know us, rather than this identity card? Would it not be better to have a card that identified the holder with the card? It would then be a biometric identity card and would clearly identify, at a minute's notice, people coming into the country and people stopped by the police. It would be far better than what we have at the moment. Passports have biometric information on them and we use them, so how do identity cards differ? Clearly, they would help in the fight against terrorism and serious crime.

Baroness Williams of Trafford: I disagree with the noble Lord that it would clearly help in the fight against terrorism. As we have seen in Europe, certainly over the last few years, identity cards are widespread but this has not helped in the fight against terrorism. The noble Lord talks about his pass and he is absolutely right: this pass is a specific thing for a specific purpose and, yes, the doormen are incredibly vigilant in the work they do, for which I have the greatest respect. But he describes why identity cards would probably not be a good thing.

Sudan

Question

2.59 pm

Asked by ***Baroness Cox***

To ask Her Majesty's Government what is their response to recent developments in Sudan.

The Minister of State, Foreign and Commonwealth Office (Lord Ahmad of Wimbledon) (Con): My Lords, since President Bashir's removal on 11 April, the United Kingdom has engaged with the protest movement, opposition parties and the transitional military council to encourage all to agree a process for a swift and peaceful transition to civilian rule. We are also working closely with international partners and welcome the leadership of the African Union in its clear push for a political transition. Sudan's long-suffering people expect their leaders to seize this opportunity for change.

Baroness Cox (CB): My Lords, I thank the Minister for his encouraging and sympathetic reply, but is he aware that I visited Sudan 30 times during the war waged by President al-Bashir and witnessed personally the scale of brutality and suffering inflicted on the Sudanese people, while the UK Government allowed his regime to continue its genocidal policies with impunity, to the dismay of the Sudanese people? What are Her Majesty's Government now doing to help to redeem Britain's reputation by giving substantive political and humanitarian support to those valiant, peaceful protestors across Sudan who have suffered a brutal response from the military Government, including at least 67 killed, many injured and hundreds arrested?

Lord Ahmad of Wimbledon: My Lords, of course I recognise the important role that the noble Baroness has played over the years in Sudan. I am sure that we are all grateful for the situation that is now emerging there. As the noble Baroness will know, the United Kingdom has supported Sudan with humanitarian aid to the tune of £30 million, and we continue to target humanitarian aid to specific regions of the country. I assure the noble Baroness that the issue of impunity for those who have committed crimes has been raised at all levels, including with the current transitional military council. We remain committed as a Government to the ICC, and we believe that any indicted criminal under the ICC should be brought to the ICC.

Lord Clarke of Hampstead (Lab): My Lords, following the street protests—especially those that took place between December 2018 and early 2019—hundreds of people were locked up. Can the Minister tell us if there is any evidence that these people are still incarcerated after the changes that have taken place? Secondly, can he say whether there has been any evidence of maltreatment during their incarceration in custody? I would be grateful if he could answer those two points.

Lord Ahmad of Wimbledon: My Lords, the noble Lord is quite right to raise that issue. My understanding is that political prisoners have been released by the transitional military council. On the question of what or how they suffered, I am sure that in time their testimonies will be accounted for and appropriate action will be taken. The head of the transitional military council has also emphasised the importance of upholding justice systems within Sudan.

Lord Howell of Guildford (Con): My Lords, while we should do everything possible on the humanitarian side arising from these events, as the noble Baroness, Lady Cox, urges—not just in Sudan but throughout the Maghreb, where Algeria and Tunis also spring to mind—can we be careful about the political side? The Minister mentions engagement. Can he and his colleagues bear in mind that our political engagement, involvement and intervention in Libya were not a dazzling success?

Lord Ahmad of Wimbledon: My Lords, I think we have learned the lessons of previous engagements. As far as Sudan is concerned, my noble friend will be aware that the United Kingdom is one of the troika of nations—together with the US and Norway—which have been leading the diplomatic engagement. Aside from Bashir, we have dealt with other members of the Administration, and I assure the noble Lord that we are working with, for example, the forces of the Declaration of Freedom and Change, which is made up of professionals, trade unionists and other civil society leaders. During the time of Bashir's regime too, we dealt directly with civil society leaders who have played an important role in ensuring that all communities in Sudan, most notably the persecuted Christian communities, see their rights being restored.

Lord Chidgey (LD): My Lords, western Governments have supported the forces of freedom and change, but Sudan's key Gulf lenders back the military council, while African states have called for more time for the army to hand over power to civilians. There are wider issues coming into play, such as Sudan's support for the Saudi-led coalition war in Yemen, the deepening economic crisis and the call for Sudan to join the International Criminal Court, with the repercussions of that, but surely the priority has to be the ongoing humanitarian challenge. What assistance are the Government mobilising, particularly to address the food crisis and malnutrition in Darfur and the Kordofans? What plans do the Government have to address the expected increase in returnees to South Kordofan and Blue Nile, putting pressure on already stretched resources?

Lord Ahmad of Wimbledon: The noble Lord is right to raise the issue of humanitarian aid. The two regions he mentions are exactly where aid is currently being directed. He mentioned the broader issue of other partners. We are working very closely with the African Union and we have also engaged directly with the Emirati Foreign Minister and the Saudi Foreign Minister, Mr Jubeir, on the situation; my right honourable friend the Foreign Secretary has had calls with both of them. It is my understanding that those two countries have already pledged £3 billion of humanitarian aid.

Lord Collins of Highbury (Lab): My Lords, I welcome the statement by the troika saying that the transitional military council must move as speedily as possible to civilian rule. As the Minister knows, transitions can be extended and extended and extended. What is the United Kingdom doing to ensure that this transitional military council remains transitional and that we make every effort to ensure a speedy move to civilian rule?

Lord Ahmad of Wimbledon: I totally agree with the noble Lord: the word "transitional" is key. In our dealings with the African Union, the suggested timeline has been three months. We take encouragement from the new leader of the transitional military council and from the protests that continue to take place. There has been a reaching out: the individuals who were of deep concern to the protest movement have been removed from the military council; and there is direct engagement with the opposition forces. Having visited Sudan and seen the suppression of press freedom and of the freedom of minorities, I think we take great encouragement from the fact that those protests and that engagement continue, and the military has ceased from intervening to suppress the protests.

Baroness Afshar (CB): My Lords, are the Government aware that everything that Sudan is doing goes directly against the teaching of Islam? As a retired teacher of Islamic law, I can tell noble Lords that Islam recognises women as independent, both financially and personally, and in terms of the decisions they make for themselves and their children. In fact, women are entitled to payment should they choose to breastfeed their children. What the Sudanese Government are doing goes against every conception that Islam has of women; it is anti-Islamic. They really ought to be discouraged and not given any funds.

Lord Ahmad of Wimbledon: I am sure that the noble Baroness is referring to the previous regime. In view of the time, I will just say that there is a Koranic verse, "La 'ikraha fi al-din", which means that there is no compulsion or coercion in faith. That should be understood not just by the new regime and Government in Sudan but by all Islamic Governments around the world.

Privileges and Conduct

Motion to Agree

3.08 pm

Moved by ***The Senior Deputy Speaker***

That the Report from the Select Committee on Independent Complaints and Grievance Scheme: Changes to the Code of Conduct (4th Report, HL Paper 335) be agreed to.

The Senior Deputy Speaker (Lord McFall of Alcluith): My Lords, the fourth report from the Committee for Privileges and Conduct, *Independent Complaints and Grievance Scheme: Changes to the Code of Conduct*, has its genesis in the autumn of 2017 when allegations surfaced in the media about inappropriate behaviour and a culture of bullying, harassment and sexual misconduct at Westminster. A great deal of work has

[Lord McFall of Alcluith]
been done since then by politicians, officials and employee organisations on a cross-party and bicameral basis. This led to a new independent complaints and grievance scheme for Parliament, including a behaviour code which sets out the standards of behaviour expected of everyone working on the parliamentary estate.

The House of Lords Commission agreed that the independent complaints and grievance scheme, or ICGS, and the new behaviour code,

"would meet the clear need for a new approach to dealing with bullying, harassment and sexual misconduct both on the Parliamentary Estate and in the course of parliamentary duties elsewhere".

The Lord Speaker, the chair of the commission, asked the Sub-Committee on Lords' Conduct to consider how to integrate the ICGS with the Code of Conduct for Members of the House of Lords, the *Guide to the Code of Conduct* and the *Code of Conduct for House of Lords Members' Staff*; and how the proposed independent reporting and investigatory service can best sit with existing procedures for investigating breaches of the codes.

That is the task we were given. The report before the House sets out proposals for amending the Code of Conduct, the guide to the code and the code of conduct for Members' staff to incorporate the requirements of adherence to the behaviour code. These proposals are the result of extensive and detailed work by the Sub-Committee on Lords' Conduct, supported by the noble Baronesses, Lady Anelay of St Johns and Lady Donaghy, as co-opted members, and subsequently by the Privileges and Conduct Committee. We also consulted Members in February and early March. The results of that consultation have informed our proposals.

There is a clear need for specific and appropriate processes for reporting and investigating complaints of bullying, harassment or sexual misconduct. Those processes must work fairly and effectively for Members and complainants, and provide appropriate support for both. Those processes must draw on the growing evidence base on best practice for addressing such behaviour. The package of changes set out in the report and the changes to the codes of conduct in the appendix to the report represent a significant step towards achieving that.

I am sure that noble Lords will have read the report in some detail, but it may help the House if I set out the key proposals. The Code of Conduct should incorporate the behaviour code and make it explicit that behaviour by Members or their staff which constitutes bullying, harassment or sexual misconduct is a breach of the code. The requirement to comply with the behaviour code will be retrospective to 21 June 2017—the start of the current Parliament. Complaints of bullying or harassment can be made to independent helplines, as well as to the commissioner, and complainants and Members can be signposted to sources of advice and support. This requirement will apply to Members who are on leave of absence or disqualified if they are on the Parliamentary Estate or using the facilities of Parliament.

The existing requirement that a Member should act always on their personal honour should be widened to cover a Member's performance of their parliamentary activities, as well as their parliamentary duties. This wider scope will apply retrospectively.

A new conduct committee should be appointed to take on all conduct functions of the Privileges and Conduct Committee and the Sub-Committee on Lords' Conduct, both those relating to bullying and harassment and those relating to other breaches of the Code of Conduct. It will have lay members with full voting rights to work alongside the Lords members to hear appeals and oversee the Code of Conduct. This will bring more independence and a valuable external perspective to the committee's work.

The conduct committee would act as the appeal body for the Member who was the subject of a complaint and, in cases of bullying, harassment or sexual misconduct, for the complainant. Appeals would be restricted to judicial review-type grounds.

The independent House of Lords Commissioner for Standards should continue to investigate complaints to establish whether there has been a breach of the codes of conduct. In cases of bullying, harassment or sexual misconduct, she will have the option of being assisted by independent investigators appointed by Parliament for this purpose.

The role of proposing a sanction should be carried out by the commissioner, rather than the conduct committee. This is another step forward in making the process more independent of Members.

Reports from the conduct committee relating to the behaviour of individual Members, including those imposing sanctions, should be decided by the House without debate. We recommend a new Standing Order to make that clear.

There are a number of proposals intended to provide a process better suited to dealing with complaints of bullying or harassment. These include removing the expectation that a complainant should raise the complaint with the Member in the first instance, and new provisions on protecting the identity of the complainant and the Member complained against.

This report is not intended to be the final answer. There are Members who wish us to go further and faster in delivering a system more or wholly independent of the House. That is for the proposed new conduct committee to consider, particularly in light of the report of the independent inquiry into bullying and harassment in the House of Lords, led by Naomi Ellenbogen QC, expected in July. These proposals are an important step towards improving our processes and delivering appropriate independence for dealing with complaints of bullying and harassment. They will keep the House of Lords in step with the new approach taken across Parliament. I hope that the House will support them. I beg to move.

3.15 pm

Viscount Hailsham (Con): My Lords, as some noble Lords will know, last December I participated in the debate on the report on Lord Lester. Since then, I have submitted a very full memorandum to the committee chaired by the noble Lord who just introduced this Motion, so my views are available to anybody who wants them. Therefore, I am sure I will be forgiven if I speak very briefly and confine myself to but three issues.

First, the fourth question in the report, and the one left over, is: should we make the process for investigating and determining complaints against Members more, or entirely, independent of the House? My answer to that is an emphatic yes. Perhaps I might make a declaration and say that for the last nine years or so, I have been exclusively concerned as a legal practitioner as a legal adviser to the regulatory panels that regulate the conduct of doctors, nurses, midwives, social workers and healthcare professionals. Your Lordships might think that I am a bit set in my ways, but they certainly inform my conclusions.

I accept entirely that our procedures must not deter complainants from coming forward, but we must not put in place a process that is unfair to a respondent Peer or one that does not accord with the principles of natural justice. An adverse finding against a Peer is a very serious matter for that individual. Inevitably it will cause damage, possibly irreparable, to their reputation. The sanctions, expulsion or long suspension should be viewed in the same light as sentences imposed by criminal courts, or the suspension or strike-off orders imposed by the regulatory authorities.

Your Lordships will know that most regulatory authorities operate under procedures established by Parliament and supervised by the appellate jurisdiction of the courts. In summary, the processes are very similar to those that prevail in the courts and, in particular, require proper discovery of evidence, the entitlement to full legal representation and the hearing and cross-examination of all relevant witnesses. I believe that any process we create must be similar to the processes we require of all the regulatory regimes with which I am associated.

My conclusion is that the role of the commissioner should be confined to investigating the complaint, establishing whether there is a prima facie case and regulating the interlocutory procedure. The commissioner should be the prosecuting authority but not the ultimate judge of fact or the decider of sanction. The determination as to fact and the recommendation as to sanction should be matters for an independent tribunal presided over by an experienced legal practitioner. The respondent Peer should be entitled to legal representation, and that representative should be entitled to cross-examine the relevant witnesses. I do not agree with the rejection of the right of cross-examination, as set out in paragraph 45 of the report.

I turn secondly and briefly to the new conduct committee. It is essential that, from the initial hearing, there should be a proper right of appeal and I agree in substance with the provisions set out in paragraph 53 of the report. I accept that the powers of the committee should be essentially the same as those that arise in judicial review and should not, in the generality of cases, involve a rehearing of the facts. I would, however, give the committee an overarching power to quash a finding on the facts, where the interests of justice so require it. However, I disagree with the report's recommendation on the composition of the committee. The lay element should be in the majority. All members should be voting members but the committee should be chaired by a senior legal figure, not necessarily one serving in this House.

Thirdly, I want to address briefly the role of this House. That is identified as the second question in the report, about whether this House should play a wider role. To that I answer an emphatic no, for two reasons. First, it is difficult to avoid a conflict of interest. It is thoroughly unseemly for Peers who know the respondent Peer to intervene on his or her behalf. Secondly, and differently, the committee or independent tribunal that first considered the matter will inevitably know a great deal more about the facts and the documents than any Member of this House could reasonably expect to.

Our stated objective, as set out in the guide on conduct and in the report itself, is to ensure that allegations made against Members are handled in a way that accords with the principles of natural justice and fairness. I do not believe our present procedures achieve that. My conclusion is that we should do away with the inquisitorial system presently in place and adopt a system similar to that which Parliament has imposed on all the regulatory regimes with which I am familiar. I do not recognise any reason of principle or procedure for according to Members of this House a different—I would say less fair— system of regulation than that which this Parliament has imposed by law on all professionals with whom I have worked, and within all the jurisdictions with which I am familiar. Accordingly, I hope we will look again at these procedures. I see that this is contemplated in the report introduced by the noble Lord, Lord McFall, and I welcome that fact.

Lord Pannick (CB): My Lords, the reforms proposed by the committee, as helpfully outlined by the Senior Deputy Speaker, will be a distinct improvement on the current system. No one who participated in the debates in November and December on the conduct of Lord Lester, or who listened to those debates, could think it was a satisfactory way for the House to assess the conduct of one of its Members. I entirely agree with the comments of the noble Viscount, Lord Hailsham.

The committee is, in my view, right to recognise that there should be a new conduct committee with lay members to hear appeals from the commissioner and to vary any sanctions. My primary concern about the report is that it does not secure a sufficiently independent determination of complaints. A new conduct committee consisting of five Members of the Lords and four lay members will simply not command public confidence because it is not independent of the House. It is easy to predict what will happen if the commissioner makes a finding of a breach of the code and the new conduct committee then overturns that decision by a narrow majority, with all or most of those members who are Lords voting in favour of the relevant Peer. It is inevitable that the House will be strongly criticised and that its reputation will suffer. It will inevitably be said that the Members of the Lords are looking after one of their own. The very fact that the Members know that there would be such criticism will make it very hard for them to assess fairly the conduct of the relevant Peer and exonerate him or her if they think it right to do so.

The only system that can command public confidence and be fair, to both the complainant and the accused Peer, is a wholly independent one with appeals from the commissioner going to a panel composed exclusively

[Lord Pannick]
of lay members with, I suggest, a retired Court of Appeal judge as the chairperson. I entirely recognise that some Members of the House will find it very difficult to give up their power in this way, but we need to do so if our complaints system is to command confidence and respect.

Paragraph 12 of the report mentions, as did the Senior Deputy Speaker, that Naomi Ellenbogen QC has been appointed to advise on bullying and harassment and is expected to report this summer. She is a much-respected figure in this field and paragraph 21 says that it would be prudent to await her report before deciding whether there is a need for greater independence on the conduct committee. I am happy to go along with that and very much hope that Ms Ellenbogen will see the force of the case for independence and report accordingly.

I will comment briefly on two other matters. The first is the role of cross-examination, mentioned by the noble Viscount, Lord Hailsham. Paragraph 45 of the report says that cross-examination is unnecessary because the commissioner,

"can undertake a highly effective and rigorous testing of the evidence in a less confrontational style".

It is exceptionally difficult for the same person to be both inquisitor and judge. There may not be many of them, but in cases where the commissioner has to decide who is telling the truth, her difficult task—and it is difficult—would be much easier if she listened while someone else asked the penetrating questions. The committee does not appear to have considered another solution to this problem. In these cases, where the commissioner has to decide who is telling the truth, she should have power to appoint independent counsel to assist her by asking questions of both the complainant and accused Peer, not in a hostile manner but in one that tests the evidence. The process of appointing counsel to the inquiry is a familiar means of testing evidence in other contexts. It works well and some Members of this House have used it when serving as chairmen on inquiries. I hope Miss Ellenbogen will address this point.

Finally, I mention the role of lawyers, as did the noble Viscount, Lord Hailsham. I declare my interest as a practising Queen's Counsel. I find it very disappointing that paragraph 55 of the report seeks to defend the existing prohibition on counsel being appointed by the accused Peer, or the complainant, to speak on his or her behalf before the conduct committee. We are concerned here with decisions that can end a person's career—that can damage, sometimes destroy, reputations built up over a lifetime, not just for the accused Peer but for the complainant as well. It is rare for a Peer or complainant to be able to represent themselves effectively in such circumstances, given the inevitable emotional strain on them. The task of the committee would be assisted by having the issues presented by a trained professional, rather than by the Peer or the complainant themselves. I hope that Naomi Ellenbogen will advise the committee that the fairness and efficiency of an appeal will be promoted if those involved can appoint counsel to make submissions on their behalf.

3.30 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I hope that a non-lawyer can get a word in edgeways, because there are other issues apart from all these legal issues raised incessantly by lawyers, and we have an opportunity as well as a right to raise our own issues. First, however, I commend the work done by the Senior Deputy Speaker and by the members of the committee, who have done a very difficult job very well indeed. I particularly thank the noble Baroness, Lady Anelay, and my colleague and noble friend Lady Donaghy, who has discussed this matter with me, for their excellent input.

There are 101 questions arising from the report and I will raise only one—but it is an important one. It has nothing to do with the legal processes—I will leave that to the lawyers. What worries me is that we are looking at this on a bicameral basis, as if everything that applies to the House of Commons applies equally to the House of Lords—and that is not the case; it is a very different situation here. In particular, there is one important difference I want to draw the Senior Deputy Speaker's attention to. It relates to paragraph 59, which mentions, as the Senior Deputy Speaker mentioned, "House of Lords Members' Staff".
What is meant by that? I would like to have the opportunity to employ people and I certainly would not bully them, harass them or get involved in any sexual activity with them. I would like to be able to do that—

Noble Lords: Oh!

Lord Foulkes of Cumnock: No, no—I would like to be able to employ them, not to do that. These Cross-Benchers are on the ball; they pick things up quickly.

I was a Member of the House of Commons for 26 years. We got a special allowance to employ staff in our constituency and in the House of Commons. There are arrangements for employing and paying staff and structures to enable MPs to do that. That is not the case in the House of Lords. So what is meant by, "House of Lords Members' staff"? A number of Members of the House of Lords have people working for them, but they are paid for by outside bodies, whether it be a film company, an organisation to which they give professional advice or, indeed, their law firm: they are not employed by the House of Lords. Can the Senior Deputy Speaker indicate whether these staff are covered if they are employed by someone else? It is not clear in any way from this whether staff who come in to help Members of the House of Lords but are employed by some other organisation are covered. Some people employ interns. Are interns covered by this? Are they considered to be House of Lords Members' staff? It needs to be clarified. What about volunteers? I have an excellent volunteer who comes regularly to help me. Is he to be considered under "House of Lords Members' staff"? Is he covered by this? None of this has been dealt with.

The desire to extrapolate from what happens in the House of Commons to what happens down here has been too strong, and a number of anomalies have arisen. I have raised one of them that needs to be clarified and I hope that there will be answers to these

questions—if not now from the Senior Deputy Speaker, certainly before we get the final report from the commissioner, Naomi Ellenbogen. I hope that, before we approve anything finally, these kinds of anomalies and questions will be answered—and I am grateful to the lawyers for allowing me to squeeze in between them.

Lord Thomas of Gresford (LD): Perhaps I may squeeze in myself after the noble Lord.

The proposed new code is a considerable advance on the existing procedures. It is an excellent proposal that a complaint of bullying, harassment or sexual misconduct should be investigated by independent investigators. The role of the commissioner should be to receive their report and, in the light of that report and any material provided by the Member concerned, to determine whether there are unresolved factual issues. If there are, she may decide formally to question the parties and their witnesses orally in separate interviews or—here I very much agree with the noble Lord, Lord Pannick—to appoint counsel to the inquiry to assist her in that task. If it is a difficult or an extremely sensitive task, it would be appropriate for her to decide to do that.

I regret that the report remains tied to the concept that the offence to be investigated is a "breach of personal honour". If ever a phrase is redolent of mothballed ermine, that is it. Paragraph 37 explains that,

"the term 'personal honour' is ultimately an expression of the sense of the House as a whole as to the standards of conduct expected of individual members".

It is,

"subject to the sense and culture of the House as a whole",

which, the report comments, "change over time". It is somewhat curious, therefore, that the House appoints a commissioner who is by definition independent of the House and has never had the opportunity to imbibe its culture—to breathe in the mothballs—in order to determine whether a Member is in breach of his personal honour. Further, it is equally curious that an appeal should lie to a panel which contains four lay members who are in precisely the same position. If misconduct is alleged against a Member, any charge should set it out in plain language, specifying the time, the place and the date. The findings of the commissioner should establish whether that precise charge has been proved.

I welcome the introduction of four lay members with full voting rights to join the five Peers proposed for the new conduct committee. However, when the conduct committee sits as an appeal panel to hear an appeal brought by a Member, it is my view, along with that of the noble Viscount and the noble Lord, Lord Pannick, that the lay members alone should determine it. Peers will have personal knowledge of the Member and may well be thought, rightly or wrongly, to be subject to unconscious bias one way or the other because of friendship, enmity, political views or personal dislike. In any other tribunal or court, a tribunal member, magistrate or judge would undoubtedly recuse himself or herself if he or she knew the party concerned personally.

The report itself does not suggest that it is the final word on the topic. As noble Lords have said, paragraph 21 recommends that the conduct committee should consider further the question of whether the process for investigating and determining complaints should be more or entirely independent of the House, in the light of the recommendations to be made by the Ellenbogen inquiry.

There is no consideration in the report of the process and procedure of an appeal hearing. In the Lester case I pointed out that the commissioner had herself adopted the role of respondent to the appeal, and referred to herself as such in correspondence. Although she was not called before the Conduct Committee, she provided the committee with a point-by-point refutation of Lord Lester's case, in support of her own decision. I suggested that that was pretty unique for a person to be involved in an appeal against their own decision. It was never made clear whether she stepped in as a respondent to the appeal by invitation of the committee or on her own initiative.

Some thought should be given to the nature of these appellate proceedings, and a proper process agreed. The appeal panel should also undoubtedly have discretion to permit legal representation for the Member on the appeal, having regard to the complexity of the case, and other factors such as illness. It is positive that the report states that the grounds of appeal should include that the commissioner was plainly wrong in her finding and that significant new evidence has emerged, but it is not clear at the moment whether such grounds are permissible under existing procedures.

Finally, I welcome the decision not to debate the outcome. I thought the proceedings we held were an embarrassment. In my view, the final determination of a complaint should simply be reported to the House, not formally made a decision of the House. It should not be regarded as a proceeding in Parliament, and thereby caught by the paragraph in the Bill of Rights of 1688, which carries the heading "Freedom of Speech":

"That the Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament".

Every disciplinary process such as this in every other field of life is ultimately subject to the overriding jurisdiction of the High Court, and it would be healthy to make the disciplinary process of Parliament subject to proper judicial scrutiny.

The report is a significant advance, but it is not, as the report and the Senior Deputy Speaker recognise, the end of the story.

Lord Evans of Weardale (CB): My Lords, I declare my interest in the register as the chairman of the Committee on Standards in Public Life. However, I speak on my own account. I very much welcome the report from the Privileges and Conduct Committee, which seems to be a significant step forward. But, as the Senior Deputy Speaker said, it is a step forward rather than the final step in the whole process. In particular, the increased independence that will be part of the construction of the conduct committee is extremely important. I share the view of the noble Lord, Lord Thomas of Gresford, that we need to continue in that direction and that a minority position for independence may not be satisfactory, particularly when difficult cases are being adjudicated, because public opinion on these issues is moving forward and we clearly need to be in step with it. The proceedings in this House before Christmas were clearly not in step

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with it, and I am therefore grateful that we will not be revisiting that episode, which I think was probably discreditable to us all.

On the question raised by the noble Lord, Lord Foulkes, about the bicameral nature of this, we need to recognise that this is a complex series of interlocking pieces of process. Various pieces of process are happening in your Lordships' House, and a variety of pieces of procedure are happening in the other House. We must bear in mind that this is a totality. We cannot entirely separate what happens here from what happens there, not least because the House of Commons, the other place, is considering the question of non-recent conduct, which is likely to extend back considerably further than is currently proposed in your Lordships' House. There is a difference there, but of course there is movement between the two Houses, so we may find that procedures in the other place impact on Members here. We need to bear in mind that those are linked issues and, I believe, in the public mind, they would be seen as part of the same issue. Therefore, we need to bear in mind how they are being played at both ends. At the moment, there is of course a considerable difference between the procedures here and those in the other place, even though there is some movement in the direction of co-ordination between the two.

Lord Foulkes of Cumnock: I agree with what the noble Lord says about working together and agreeing a bicameral core operation. However, things are different. To illustrate the public mind, I was sitting in my office in Millbank House. The phone rang, and someone from a corporate office said, "Could I speak to Lord Foulkes's diary secretary?". I said, "You're speaking to him". They think we have a whole panoply of members of staff working for us. We need to get over the point that that is not the case.

Lord Evans of Weardale: I entirely take the noble Lord's point and would welcome having a diary secretary myself, but I do not. It is clear that we do not have identical working procedures at both ends of the Palace. Nevertheless, the principles are the same. We also need to recognise that if there are changes in the procedures in another place, we need to consider how they might impact here and vice versa. We need to make sure that there is visibility in the procedures at both ends. It is not clear to me that there has been quite as much visibility in the recent period as one might from the outside have expected.

I welcome the fact that the new conduct committee will look at and take forward the work that has been done by the Privileges and Conduct Committee so far. I think that we are still some way from reaching a perfect system; I suspect that we will never reach one because there will always be changes both in public expectations and in procedures that need to be reviewed. However, we have been provided with a helpful step in the right direction and I look forward to the new procedures being put in place.

3.45 pm

Lord Woolf (CB): My Lords, I should begin by referring to my interests in the register and stating that I took part in the debates relating to Lord Lester, to which I shall refer in a moment. In that regard, I am pleased to be able to say that I consider Lord Lester a personal friend.

Today we have taken a new look, rightly, at a subject of considerable importance: how this House proposes to tackle conduct that has apparently become more prevalent recently than it was in the past; namely, instances of individuals in a position of power taking advantage of that power to bully, harass and commit sexual misconduct involving individuals in a less powerful position.

It is important that the House should act in accordance with the rule of law and is an example to other institutions—here, I pay recognition to the improvements recommended in the report which we are considering. Undoubtedly, those who had that responsibility have given careful attention to the problems and put forward what they regard as the best proposals that at this stage it is possible to make. Those proposals are certainly to be welcomed as an improvement.

I say that remembering that Lord Lester was successful in the first debate in relation to his conduct but that in the second the position was reversed. That perhaps illustrates the difficulties involved. I am not in the least surprised that those who have spoken before me have made comments which could be regarded as being critical of what is in the report but at the same time have felt it possible to welcome what is now proposed.

After the second debate, I was left with the uncomfortable feeling that Lord Lester did not receive the fair treatment to which he was entitled. In saying this, I have no insight as to his guilt or otherwise. However, irrespective of his position, he remained entitled to a procedure which was fair. Although cross-examination was not an essential requirement in the circumstances in which he was involved, the fact remains, as others have said, that without cross-examination it is very difficult and sometimes impossible to ascertain where the truth lies when two people give different accounts which are wholly unsupported in either case. I was therefore delighted that the House decided to hold an inquiry conducted by an eminent QC into the procedures which should apply in this type of case.

I was also pleased that the House thought it proper to conclude a process of consultation, although I was surprised that it was restricted to four topics, as noble Lords will see from the top of page six of the report. However, the report also makes it clear that if comments were made outside those four headings, they would be taken into account; indeed, they were. I hope that when Miss Ellenbogen's report is made available in the summer, as expected, the House responds to it appropriately.

I turn now to the proposals contained in the committee's report. Like other noble Lords, I wish to identify the ones I regard as particularly important, such as those amending the Code of Conduct and the guide to the code. I emphasise that paragraph 6 of the introduction to the report states that the proposed changes will include,

"a new set of processes for investigating complaints",

of the type with which we are concerned; namely,

"bullying, harassment or sexual misconduct".

Paragraph 29 on page 10 states:

"We recognise the clear need to implement specific and appropriate processes for reporting and investigating complaints",

of the type with which we are concerned. These processes are intended to,

"work fairly and effectively for both members and complainants and provide appropriate support for both … and to draw on the growing evidence base on best practice for addressing such behaviour".

The proposal I regard as of the greatest importance is that, where appropriate, the commissioner should be supported by a team of independent investigators appointed by Parliament, and that the commissioner may delegate any of her investigatory functions to them. The significance of this proposal—I believe I share the view of the noble Lord, Lord Thomas, here—is that it will produce a situation similar to that regularly adopted in public inquiries to appoint a counsel to the inquiry. A single commissioner acting alone may find it almost impossible to find the truth in this sort of case. The report does not indicate who the independent investigators will be, nor the qualifications they will have. However, I am prepared to rely on the fact that the commissioner is responsible for conducting a full investigation on behalf of the House, and that the House will ensure both that those who are appointed are fully qualified to do so and that the truth of the complaint can be assessed quickly. If I am right in making this assumption, my greatest reservation about the procedure in its unamended form is largely met because, for example, legal advisers can assist in conducting cross-examination if they wish to do so. I cannot see anyone objecting to questioning in that form.

Baroness Butler-Sloss (CB): I wonder whether the noble and learned Lord understands that none of the investigators will be lawyers.

Lord Woolf: I am grateful to the noble and learned Baroness for drawing that to my attention but it is not stated in the report.

Baroness Butler-Sloss: But it is true.

Lord Woolf: Perhaps the Senior Deputy Speaker can confirm that. If that is the case, I suggest that it is a mistake; I hope that the investigators will be experienced. They may not have the particular qualifications of a barrister, but they may be familiar with legal proceedings and able to play a prominent part in the informal domestic forum I hope will exist in respect of these complaints. Even if they are not lawyers and they do not have previous experience, in time they would develop it by doing the very job that a lawyer often does. The important thing is that the commissioner should have skilled assistance because she is not meant to do everything herself. She should be able to delegate, as is proposed in the report.

The other matter I will refer to is the powers of appeal. As has been said, they are similar to those on judicial review. Those who have experience of judicial review will know, as I do very well, that it can be an excellent form of appeal, especially in respect of tribunals of the sort which are involved in investigating these complaints. The powers on judicial review are attuned to the purpose of ensuring that the role of justice is properly protected and it is of significance that reference to judicial review is made on the final page of the report. It is right that that should be so.

For the reasons I have indicated, I hope that this will mark a real improvement. I am sure that what existed before this report should not be allowed to continue any longer if that can be avoided.

Baroness Anelay of St Johns (Con): My Lords, I agree entirely with the final remarks of the noble and learned Lord. I always listen to the lawyers in this House. I have nothing against lawyers—indeed, how could I since I have been married to one for 49 years? I listen to him too. It is important that we are able to draw upon the expertise of lawyers across this House, and that has been the opportunity afforded to us today.

I was, as my noble friend on the Front Bench taking the place of the Senior Deputy Speaker for the moment has said, co-opted to the committee to support the discussions. Like the noble Baroness, Lady Donaghy, I did that to the best of my ability. We were not privy to any discussions about existing cases. I pay tribute to the noble and learned Lord, Lord Brown of Eaton-under-Heywood, for his skill in managing what was a complex, significant and very sensitive discussion. As the noble and learned Lord, Lord Woolf, said, it is important that we do not continue as we are and that we take account of where the system has not worked to the best ability. That is because the best ability is a system that provides reassurance for those who wish to bring complaints against Members of this House and protection for Members of this House who do not, as I certainly would not, wish to face vexatious and unfounded claims made against us. That is a difficult challenge to face and I believe that the report before us takes a significant step forward in helping us to meet that challenge. It has already been mentioned that a report by an eminent QC is to be published this summer and that we would take account of it at that stage. We cannot predict its outcome. We can deal with what we have, and that is based upon our own experience and indeed the consultation which has taken place.

I would like to refer in a little detail to two matters, but since one of them, cross-examination, has been widely covered, I hope to be briefer than otherwise I might have been. The first matter concerns the behaviour code and what defines the behaviour that comes within it. Paragraph 35 of the report proposes a widening of the definition of activity that would fall within the code. The existing requirement says that,

"a member should act always on their personal honour",

when it applies to a Member's,

"performance of their parliamentary duties".

This paragraph extends the requirement to cover the performance of "parliamentary activities". I very much welcome it, because it would, for example, cover behaviour while parliamentarians are on visits overseas connected with these activities.

4 pm

Since I ceased being a Minister over a year ago, I have been able to join other parliamentary colleagues on overseas study visits. On three occasions, I have

[Baroness Anelay of St Johns]
been a member of Inter-Parliamentary Union visits. On each occasion, the British Group IPU has given absolutely clear directions on the importance of appropriate conduct and action that would be taken by the IPU in the event of inappropriate behaviour overseas. That guidance is given not only in print but verbally by the director of the IPU. That is good practice but, currently, if there were inappropriate behaviour, no action could be taken within our own rules here. I am therefore very pleased that paragraph 35 clarifies what comes within the behaviour code.

There has been much reference, both in discussions in December and subsequently in the case of Lord Lester and today, to what should frame the nature of our investigatory process; to whether it should be very much focused on a judicial process or have independence built into it but still reflect what has been the good character of this House. More generally, I support the proposals in the report, on the basis that they try to ensure there is fairness, as far as is practicable, in the system for reporting and responding to complaints on matters of conduct, but do so in a way that retains the investigatory approach rather than cross-examination. It is vital that those who believe they are victims of bullying, harassment or sexual misconduct can bring a complaint to the House without feeling that they will be at a disadvantage in what they will consider to be a power imbalance against them, or indeed Peers' staff. Here, I very much reflect on what the noble Lord, Lord Foulkes, said about a definition of "Peers' staff"; he was right to raise that matter.

I am particularly concerned about House staff—not those to whom the noble Lord, Lord Foulkes, referred. We must ensure that they are able to report breaches of the behaviour code without any fear of being automatically disbelieved or at risk of damaging their career. They deserve that respect, but I feel that their faith in our system has been undermined.

It is of course absolutely vital, however, that the respondent to a complaint—she or he—knows that the system adopted by the House means that best efforts will be made to discourage and weed out vexatious allegations. It is something I would not wish to be subject to, and I am aware of some of the prying questions that can be asked by people outside the House. That is part of being in politics; it is not part of a system of judging people's conduct, where we need to get at as much of the reality of what has happened as we can.

No way of trying to elicit evidence can ever produce the perfect answer, unless there is an incontrovertible DNA sample. It is all a matter of testing evidence and being confident that those testing the evidence are doing so in as fair a way as possible. Cross-examination is not the only way to discern facts of events. It is often perceived to be hostile, even if not intended to be, and can be counterproductive. Over several years of sitting as a layperson on appeal tribunals on social security, and during 30 years of working as a volunteer in various capacities with Citizens Advice, I have seen the success of investigatory techniques. Through careful, cautious, sensitive but utterly determined questioning, those who are professionally trained can arrive at the information required to be able to give a fair judgment on what events have proceeded.

As has already been said, there are provisions in the report that provide the commissioner with additional resource to have access to those who can give advice, whether or not they are legally qualified.

We have within the report a significant way forward to ensure that we have confidence in ourselves to respond properly to complaints, for the public to have confidence in our procedures, and for the staff of this House and other staff to have confidence that powers will not work against them.

Baroness Deech (CB): My Lords, I declare an interest, having spent 30 years either supervising or carrying out complaints-handling as an independent adjudicator for students, for the NHS, for staff at Oxford University and regulating the Bar.

I agree with every word spoken by the noble Viscount, Lord Hailsham, and my noble friend Lord Pannick. I am afraid that the report, although well intentioned, is going in the wrong direction. I hope the House will suspend action on it until we receive the results of the further, and perhaps final, investigation by Naomi Ellenbogen QC. I say that because there is no doubt that in modern circumstances one has to have a totally independent outside investigation of complaints made in a body such as this, in the NHS, in universities, at the Bar or anywhere else like that. Therefore the committee should have at least a majority of lay members and preferably it should be 100% non-Peer. None of us wants to go again through the excruciating embarrassment and possible miscarriage of justice that occurred last December when we were looking into the case of Lord Lester.

I wish to raise a few questions on definition. First, the report needs to define natural justice. Lawyers take it for granted that everyone knows what natural justice is but that is not the case—even lawyers disagree—and it was in part the interpretation of natural justice that come to the fore when we discussed the case of Lord Lester at the end of last year.

Secondly, we need to know what is personal honour. Is it the same as bringing the House into disrepute or is it to correspond with the seven principles of good behaviour in public office? It is important that we remember the criteria on which Peers are appointed—at least Cross-Bench Peers—by the House of Lords Appointments Commission. They have to be vetted, sign up to, understand and abide by the seven principles—selfless, honest and so on—of behaviour in public life. We need to know exactly what is included in personal honour and whether it includes, for example, bringing the House into disrepute.

We also need to know exactly what is harassment and whether it includes racism. For example, a meeting could be held in one of the committee rooms in the House, hosted and organised by a Member of the House, which is devoted to racism, the necessity of jihad or something equally unpleasant. All the Members attending will be in favour of that. They will all be signing up by their attendance to some form of discussion of racism or terrorism and yet no one will complain because everyone there is in agreement. It is only

outsiders and third parties who would complain that a Member is holding a meeting of that nature. Would that be covered by the code because the report states that only someone who has been offended should be able to complain?

We need further clarification but I hope that we will swiftly move to a state, which must come about sooner or later, where such complaints are determined in the end by a wholly non-Peer committee.

Baroness Hussein-Ece (LD): My Lords, last November we had rather an unedifying debate on the conduct of Lord Lester. After that debate, more than 70 members of House of Lords staff were so strongly moved by it that they put pen to paper and a public letter protesting that their concerns were not being addressed was published in the media. They were so alarmed by what took place here. Noble Lords will recall that the sentiment was expressed that harassment, sexual harassment and bullying were commonplace. How many of us would have known that that was the case? How many of us would even be aware that the staff here felt so strongly that they would come together and publish such a letter? It was quite unprecedented.

I think it was the noble and learned Lord, Lord Woolf, who said that this is a new phenomenon—that staff now come forward because harassment has increased. I disagree. I think staff—women and others—are now much more aware of their rights. They expect to be treated properly and fairly in their workplace. Be they employed by the House of Lords establishment or by individual Peers, they expect to be treated as they would be in any other forum in public life or when employed by any other public body. We have to respect that and rise to that challenge. That is why I support the report of the Privileges and Conduct Committee. It is a positive step from what we have already. I disagree with the noble Baroness, Lady Deech, that we cannot agree to this; we simply cannot leave the status quo as it is. It is not acceptable. We have all agreed that it is not acceptable and we need to move forward. This is going in the right direction. It is not perfect but we are waiting for the report in July. I hope that will throw up some more answers to the questions raised by noble Lords around the House this afternoon.

I am concerned that because this is about us as Peers and we sign the Code of Conduct, we are worried about how fairly we will be treated if we come up before a committee following a complaint. Of course we should be worried, but we should have confidence in the system. We are in positions of privilege and power, while the staff who work here are not. It is an unequal relationship, so we must make sure that the most junior member of staff in this place—the intern or the volunteer—has the confidence to make that complaint. As the noble Baroness, Lady Anelay, said, of course we must be wary of vexatious complaints, but someone would have to be pretty unusual to want to make a vexatious complaint and go through the kind of scrutiny that a lay person would have to go through. We know that there is underreporting rather than overreporting of these matters. We know from the staff who complained that it is commonplace. How many of them did not feel empowered enough to complain because they did not feel confident that they would be listened to or believed? Whatever we put in place, we must make sure that people who do not have a voice—who do not have access to a QC colleague or the means to employ somebody to defend them—have confidence that they will be treated equally to the Peer who is the subject of that complaint.

In the debates in November and December, the issue of cross-examination kept coming up. We are not talking about a court of law or a legal body. It would be a civil case and a civil procedure. To compare it to a court of law with cross-examination is not comparing like with like. In the previous debate, the noble Baroness, Lady Kennedy, made a very powerful point when she asked whether we could imagine a very junior member of staff being cross-examined by a leading QC. How on earth would he or she be able to afford to employ a QC to defend him or herself to balance it out? It just would not happen. The idea of cross-examination and testing is not the way forward. Investigating properly is the way forward. That is the way to test evidence: to receive it from both sides and make a decision on it. That is the best way forward. I hope that the House will support the committee. This is an interim report. It is not the final report but, my goodness, it is a step in the right direction compared with what we had before.

I heard what my noble friend and others said about Peers being on the committee. I would have expected Peers on the committee who knew the Peer being complained about to recuse themselves from taking part in this interim report. I could not imagine a situation in which any Peer would try to vote something down when they were clearly very close friends or colleagues of the Peer being complained about, but unfortunately that is what we saw last year in this Chamber in the case of Lord Lester. That was completely improper and it reflected very badly on us. It would never happen in local authorities up and down the country, where you would have to leave the room, never mind recuse yourself. You would not be allowed to take part in any decision that involved anyone who was a member of your family or a friend and so on. I think we were stretching matters last year in doing that, and we did not cover ourselves in glory.

We are moving away from that and going in the right direction. I hope that Members will consider that we want not only a very fair and transparent system but one that is seen to be fair by the public outside, who are scrutinising us more closely than ever. We need to rise to that challenge, so I support the report and I will be very interested in what comes forward in July. I hope we can get to a position where we all have confidence in this House's procedures.

4.15 pm

Lord Campbell-Savours (Lab): My Lords, I always follow very closely the words of the noble Baroness, Lady Hussein-Ece, because she has shown great courage over a few years in a number of contributions, particularly the speech that she gave about the Lester case. However, I profoundly disagree with her.

I also listened to the comments of the noble Baroness, Lady Anelay, who drew a distinction between the investigatory and the examinational approach to these matters. That is exactly the argument at the heart of what is going on in ICSA. People believe that ICSA

[Lord Campbell-Savours]
will come to the wrong conclusions because of the process that it has adopted in its inquiries. However, that is another matter and it is relevant only in the sense that it deals with sexual offences.

Paragraph 122B on page 44 of the report says:

"When a member is being investigated in relation to allegations of bullying, harassment or sexual misconduct the identity of that member will not usually be made public until the publication of any report at the conclusion of proceedings (see paragraph 122)",

which deals with it in some detail. I want to know what,

"not usually be made public until the publication",

actually means. What criteria will govern whether the name of the Member concerned is made public? We are talking here about a person's reputation, and in the case of Lord Lester the international reputation of a prominent lawyer. My view is simple. We need clear guidance about the circumstances in which the name of a Member will be made public when it may well be that at the end of the inquiry that Member is found to be totally innocent, yet his reputation will have been completely destroyed.

Lord Butler of Brockwell (CB): My Lords, I want to say a few words because, very unusually, I want to express a different view from that of my noble friend Lord Pannick, the noble Viscount, Lord Hailsham, and my noble friend Lady Deech.

Having taken part in the debates about Lord Lester, I of course recognise that when the House has the responsibility of reaching a verdict on the conduct of one of its own staff or Members and on any sanctions attaching thereto, it is vulnerable to the appearance of conflicts of interest. Quite understandably, this debate has concentrated on the subjects of bullying, harassment and sexual misconduct, which come into the code of conduct for the first time. But we have to remember that the code of conduct is hugely about other matters, not just those three; in fact, paragraphs 10 to 106 are about other matters that reflect the rules of the House.

Breaches of the code of conduct, including those in the future relating to bullying, harassment or sexual misconduct, will often be breaches of the criminal law. In those cases, it is obviously right that the inquiry should be entirely independent. It should be carried out by the police, have lawyers on each side and be subject to the courts of law.

In this case, even with our distaste for bullying, harassment and sexual misconduct, we are talking about something short of breaches of the criminal law. We are talking about the rules of the House. It seems anomalous that, in a self-regulating House, the ultimate decision on those breaches and the sanctions that attach to them should not be a matter for the House itself. I therefore agree with the report, which introduces a procedure in which there is an independent investigation and a committee with a significant element of independent members, but the discipline committee is chaired by a Member of the House and has a small majority of Members of the House on it. When we are talking about the rules of this body, like any other institution, it should ultimately be for this body to decide whether those rules have been broken and what sanctions should attach to it.

I welcome the respects in which the report makes changes. I welcome that it brings in bullying and sexual harassment, and I support the other changes, including the widening of the code of conduct to parliamentary activities, not just parliamentary duties. As I have said, I believe it is right that the discipline committee should have a small majority from the House because that seems consistent with a self-governing House. I also welcome the encouragement to the commissioner to call upon the support of teams of independent investigators to help establish the facts; in the case of Lord Lester, I felt that aspects of the way in which the commissioner carried out her investigation were defective.

One aspect of the report gives me pause—here, I follow the noble Lord, Lord Thomas of Gresford—and that is the proposed change to Standing Orders so that a report of the discipline committee is put to a vote of the House without debate. I see the dilemma here. On the one hand, like others, I am anxious to avoid the House getting involved in distasteful debates and votes, as in the case of Lord Lester. On the other hand, it seems that to vote on a question without any opportunity for debate is to go through the formality of obtaining the House's assent without any reality in the substance; it is, to coin a phrase, "a meaningless vote". Therefore, like the noble Lord, Lord Thomas of Gresford, I would prefer that the report of the disciplinary committee be subject to a take-note decision and not to a vote without debate.

Baroness Stowell of Beeston (Non-Afl): My Lords, I welcome the report. I see it as an important step forward. It is right that a new committee is established and I support that committee including lay members. Whether or not there should be more lay or independent members in due course is a topic for further consideration. I am not sure I support those noble Lords who have argued for complete independence for the disciplinary regime of this House, because it is an important responsibility for us as Members to uphold the House's reputation by being prepared to take appropriate action when one of us does something wrong. As the noble Lord, Lord Butler, said, it would be a mistake for us to completely delegate responsibility for that to an independent body.

Paragraph 24 of the report mentions a disrepute clause. My position on this does not lend itself to the debate on investigation versus inquisition but, since the report refers to disrepute, I want to take the opportunity to highlight why I think it is important for us as a House to understand that we carry a reputational risk at the moment. If a Member's misconduct outside this House is so serious that their continuing membership would bring the House as a whole into disrepute, currently we are powerless to act. This is compounded because, being an unelected House, we are powerless to act if a Member in such a situation does not resign. I am talking about disrepute in a way which refers to something happening outside a Member's parliamentary responsibilities and activities—in another part of their life—but which is extremely serious and becomes public. If that person continued to be a Member of this House, it would bring the whole House into disrepute.

When I was Leader of your Lordships' House, I spent about a year working on a disrepute clause and was assisted by several noble and learned Lords. This work was presented to the Privileges and Conduct Committee and was accepted by the committee at that time, but it never made it to the Floor of the House. It has remained in abeyance ever since. When making her argument about the need to specify what might constitute disrepute, the noble Baroness, Lady Deech, indicated, as does the report, that it is too difficult to define what would be captured by such a clause—I believe this is one of the reasons why this measure has never become part of our disciplinary actions. However, that somewhat misses the point. We should never have to define what would be caught by such a power. We need to understand that if and when something so serious occurs, we would have the power to act in the way the public expect, precisely because the public do not have the power to act themselves.

I just wanted to note the fact that there is reference to disrepute in the report and that I hope very much that when the new committee is established it will consider this as part of its overall work plan, to strengthen our disciplinary regime.

Viscount Hailsham: The noble Baroness has identified a very considerable problem. It has been addressed by the regulatory authorities, which have a concept of impairment of fitness to practise. In the case of Grant, Mrs Justice Cox gave a very clear indication of what would constitute impairment of fitness to practise. That is a model that this House might care to reflect on, to address the point that the noble Baroness has just made.

Baroness Stowell of Beeston: It would certainly be for the committee to consider how to approach this, but I make the point to the noble Viscount and the House more generally that the reason for not having a disrepute clause or the power to act if the conduct of one of us outside this House is so serious that for them to continue as a Member would bring the whole House into disrepute should not be because we have not been able to define specifically what would constitute such action. We should just have—and be able to show to the world outside that we have—that power to act in such circumstances that it is so obvious to us that that is what we should do.

4.30 pm

Baroness Deech: The point I actually made was about the difficulty of defining acting on your personal honour. I also remind the noble Baroness, who once had a very senior position at the BBC, that even the BBC, one of our most independent and proud organisations, known around the world almost as much as this House, had a very incestuous complaints-handling scheme. In the end it was handed over to Ofcom, because that is the way things are going. Even the BBC had to accept that.

Baroness Stowell of Beeston: The reason why organisations pass responsibility in such circumstances to another body is because they have themselves failed to meet the expectations people rightly have of them. I am arguing that it may be that what some noble Lords have argued for in the context of the specifics of sexual misconduct, bullying and harassment is what should happen. Irrespective of that, it does not remove the need for this House to have the power to act in the circumstances as I have described them.

Lord Brown of Eaton-under-Heywood (CB): My Lords, I think the House will know that for some years now I have had the honour of chairing the sub-committee. I promise I will not say a huge amount. I will first try to nail what I might call a loose point from the noble Lord, Lord Foulkes, about Lords Members' staff. I might have got hold of the wrong end of the stick that he was waving, but on page 57, headed "Code of Conduct for House of Lords Members' Staff", paragraph 1 specifically describes the staff to whom these few paragraphs are directed. It applies to,

"staff who have a parliamentary photo-pass or email account sponsored by a member of the House of Lords for the purpose of providing parliamentary secretarial or research assistance to the member, including members' spouses with an email account".

If I have missed the point, so be it. No doubt he will pursue that matter later.

As today's debate as a whole has shown, and as was perfectly apparent from the responses to the consultation process we had a month or so ago, there is room for a huge diversity of views on the huge number of interlocking issues, as the noble Lord, Lord Evans, said, that this report raises. Someone said there are 101 issues—a gross exaggeration: there are many more than that. The fact is that a lot of these questions overlap. Naomi Ellenbogen, Queen's Counsel, who is, I understand, a member of the Bar Standards Board and is very well regarded, is to report at the end of July. She is hard at work on her report and seeing a number of people; I myself have been asked to see her in a couple of weeks' time. I hope that one value of this debate is that she will be able to see the House's views on a number of questions that have been raised.

There are one or two absolutely fundamental questions. One is whether we shall continue to operate an inquisitorial rather than adversarial process. There is no doubt an imperfect divide between the two, but that is a pretty basic question. Those such as the noble Viscount, Lord Hailsham, are in effect contending for an adversarial process. He helpfully nods to show it. There it is. It is obvious from the report that I, with colleagues on that committee, strongly support an inquisitorial approach.

A second basic question is whether the whole process should be totally independent of the House; again, there are those who contend for that. Can I throw into the mix one or two considerations? As we know, the House of Commons is operating on a 50:50 basis now, and following the recommendation of our sub-committee, it now gives its lay members a vote. There was a time when it was thought that giving lay members a vote would forfeit the privilege otherwise attached to these proceedings, but surely if you have an entirely independent process, with no Member of the House involved, you certainly do not attract parliamentary privilege. Now there are those—the noble Lord, Lord Thomas, among them—who would say, "Well, good thing, too", and we are then subject to the review processes of the courts and all the rest of it. Again, I respectfully question whether that is a good idea. Certainly, the Commons does not seem to be thinking of going down that rather unusual route.

[Lord Brown of Eaton-under-Heywood]

Another consideration is that if the whole thing is outside the control of this House and wholly independent, if and when it is necessary to impose some of these new statutory sanctions—expulsion, obviously, and suspension beyond the length of a current Parliament—there will have to be primary legislation, because at the moment it is the decision of the House to deal with these things. Therefore, one has to take a longer view than the idea of removing any involvement of this House. We all recognise that it is very desirable to have lay members. They introduce their external experience, and contribute greatly to the independence of the process. That too is helped here by the commissioner making the recommendation as to sanction, which at the moment she does not.

There is also the question of personal honour—and I can see that there is room for two views on this. The noble, Lord Thomas, suggested that it is difficult to define. It was a concept introduced by the noble and right reverend Lord, Lord Eames, in 2011, when the processes were last revised. It is the sense of the House, and therefore at the appellate stage you really would need some Members to be involved in overseeing it.

There are hosts of questions on the whole business of the process of investigation. I do not want to go into that. I say only that it is rather bizarre that of those who question the ability of our independently appointed commissioner and criticise her as being unable to conduct this process satisfactorily, and instance the Lester case, almost no one went to see all the factual material, including the transcripts, although there was an open invitation to do so. My noble friend Lady Deech did, after the debate, but before the debate only two people actually troubled to go and look at that material. One was the noble Lord, Lord Macdonald of River Glaven—who then made a speech saying that having looked at the transcripts of the commissioner's interviews of the central witnesses, he was entirely satisfied that the procedure had been properly conducted. I do not want to go too far down this road, but he has a measure of experience as an erstwhile DPP, so I would caution those who want to begin altering what I suggest is a perfectly satisfactory inquisitorial process into something which is dangerously akin to an adversarial process.

I will make one point in respect of the specific arguments of the noble Lord, Lord Pannick. When you get to the appeals stage, I see that there may be room—I suggest that perhaps there already is, although you would need to have a Motion changing the Standing Orders before you can get there—and there may be a stronger case than was hitherto acknowledged for allowing some measure of representation, certainly in the case of any Member of the House who cannot properly conduct his own appeal. That criticism aside, I respectfully suggest that this report is a huge improvement on what has been previously accepted and I urge your Lordships to accept it.

Lord Paddick (LD): My Lords, I cannot let this opportunity go past without saying how strongly I support what my noble friend Lady Hussein-Ece said. Particularly in cases of bullying and sexual harassment, the power imbalance has to be taken into account, and the only proper way of investigating such cases is with an inquisitorial rather than an adversarial system. I understand that lawyers in the House have lived and breathed—and lived by—the adversarial system, but there are circumstances in which it is not appropriate, and I believe that, in those particular cases, it is entirely inappropriate.

Baroness Berridge (Con): My Lords, I wish very briefly to add to this debate. I have sat through the entirety of this debate because I believe, on behalf of this House but also on behalf of the staff, that it is a very important matter. I often have the privilege of addressing young people through the education department, who say to me: "Describe a day in your life in the House of Lords". Today, my day began with the hearing of the Ecclesiastical Committee, which is linked to what we are discussing. We are not the only institution struggling at this time to work out processes that enable people to come forward but that are just, so that they do not crush the people against whom the complaints are made in that very process.

As a lawyer by profession, I know that "vexatious" was often used in relation to particular litigants; it was not necessarily vexatious litigation. Vexatious litigants are those who repeatedly make claims that are malicious or unfounded. Eventually, the courts often act against them to prevent them bringing claims. I very much doubt that the HR processes and recruitment processes of this House are such that we will have vexatious litigants on staff. There may be unfounded claims or claims where it is not possible to reach a conclusion, and there may be the very, very occasional malicious complaint. But I do not think, and I would not want the staff of this House to think, that there could be vexatious litigants generally working for us here. I would be grateful if the Senior Deputy Speaker could outline what support is open to staff. I hope that many staff are members of a union. Unions do not just provide lawyers; they often provide the appropriate support to staff who are in the position of having to make such a complaint.

Having sat here, I have reflected on the complaints which I have been aware of in recent years. They have often related to Members and their engagement with people whom they meet through a common interest; so it is in the context of people from outside. When looking at trying to shield ourselves from complaints that might be unfounded, Members have a whole array of tools to do that within their professional life. One-on-one meetings should by practice be held in public and not in your office. So I really do not think that there are deep grounds for concern about complaints being ill founded or vexatious—but, as I have reflected, most of the cases have come from that one-on-one personal contact through a shared interest.

It is a great sadness. I struggle to put myself in the place of a junior member of staff here who feels that they have been treated in the manner outlined, with bullying, harassment or sexual misconduct. I hope that all Members, if they witnessed anything of this nature, would take the role of balancing out that power imbalance and taking action immediately if they saw any of this kind of behaviour. That is also part of our responsibility, as well as having a process that is just to the complainant and to the Member.

4.45 pm

Lord Hogan-Howe (CB): My Lords, I had not intended to speak but I will, perhaps for the same reason that the noble Lord, Lord Pannick, did. The noble Baroness, Lady Hussein-Ece, does not need my support, but I offer it. I echo the noble Lord, Lord Campbell-Savours, in commending her courage, but I came to an entirely different conclusion based on the same evidence. I agreed with almost every word that she said.

My first point is on inquisitorial compared to adversarial. The people who support adversarial seem to agree that the process can potentially damage someone's reputation, but they forget that the 99% of people in this country who are employees can suffer a similarly damaging consequence: namely, loss of employment. Their employer can make a decision to remove them from their employment, which will damage their reputation, and they may not have the benefit of a lawyer. As it happens, a police officer does, because they are not an employee; they are governed by police regulations. This is more akin to an employment issue than to a crime. The consequence is not going to prison for life but being deprived of the use of this place and of the titles and privileges that go with it.

My second point is on cross-examination, which clearly has had many benefits over time but is not infallible. Some of the most serious miscarriages of justice in this country have resulted from processes that have involved cross-examination and yet have not discovered the truth. As we have had to readdress in the last 48 hours, it has also damaged some victims, because the process can go on to destroy the victim, not necessarily always to defend the suspect. These things are changing, but we have to accept that this has happened over time.

I end where the noble Baroness, Lady Hussein-Ece, and the noble Lord, Lord Evans, did. This is not a perfect process: I would support far more—possibly total—independence going forward, because we need to prove to the outside world that, contrary to perception, we are prepared to stand the judgment of our peers outside, not our Peers inside. July is only a matter of weeks away, so we need a far better interim process in place to have succour for ourselves. I sat here in November and got increasingly angry, sad and uncomfortable. I have been in the House for only two years, but I thought it was awful. We should not go through that again. I think all noble Lords accept that, on reflection, we could have acted better. Some—including the noble Baroness, Lady Jones, who is not in her place—acted courageously. Before we go to the adversarial system, we need to think seriously about how others see us as well as how we can improve our process, which this report intends to do.

Baroness Butler-Sloss: My Lords, at this late stage I shall be very brief—I confess of course that I am a lawyer—and say something about adversarial and inquisitorial, because there may be some misconceptions. I am delighted to hear that there will be a panel of investigators. I would expect most of them not to be lawyers, but to be able to do practical investigation. That seems to be entirely sensible. We need to differentiate between the different sorts of cases. There will be cases of harassment or bullying, which are nasty and will possibly require suspension from the House. There will occasionally be cases such as Lord Lester's. It is in relation only to that type of case that something slightly different should take place. As the noble and learned Lord, Lord Woolf, said, it is not a good idea to have the person who is adjudicating also being the investigator. There are problems in that. I am not criticising the current commissioner; I just think that she could have done with some help.

I have a suggestion about the best thing in the very difficult case of a stark difference of evidence, where one has to resolve who is telling the truth; because only one person can be in such a—thankfully rare—case. In such a case the investigator should, in my view, be a lawyer. However, it is appropriate only in that rare case, where the reputation of the victim is important, but so is the reputation of the Peer, who is almost certainly going to be excluded from the House for ever and whose reputation will be completely destroyed. At that point, you do not want cross-examination as such, but you need a sensible, discreet member of the Bar who can ask appropriate questions, without being disagreeable about it, to try to ascertain the truth from the parties who are being asked these questions. I put it to the House that there are rare cases where the commissioner may need the help of a lawyer rather than the ordinary investigator we are talking about.

Lord Pannick: Does my noble and learned friend agree that, in her experience, many inquisitorial processes take place throughout the country, on a wide variety of subjects, where lawyers are involved and there is a degree of cross-examination by counsel to the inquiry and lawyers representing the individuals? The fact that it is inquisitorial does not mean that those protections are removed.

Baroness Butler-Sloss: I entirely agree. I have chaired commissions, committees and so on, particularly the Cleveland child abuse inquiry, where there were a great many lawyers. I am not suggesting any of that for this, but I think we need to adjust the way in which the issue is tried according to its seriousness and the likely outcome, if it goes the wrong way, for the Member of this House who will be permanently excluded.

The Senior Deputy Speaker: My Lords, I thank the 17 Members who have contributed to the debate. I have notes to respond to every one of the 17, but I know I will be stretching the patience of the House if I start to do that, not least because the noble and learned Lord, Lord Brown of Eaton-under-Heywood, the chair of the sub-committee that devised these proposals for the P&C committee, has expanded on that issue.

I commend the House today for the constructive debate and the spirit in which it was held. It underlines the fact that this is a significant move forward. We have near unanimity, with 16 people telling us it is going in the right direction and one person saying that it is maybe going in the wrong direction. That near unanimity is extremely important.

I want to comment on the contribution of the noble Lord, Lord Evans of Weardale, who, in his position as chairman of the independent Committee on Standards in Public Life, has met me on two occasions. He sent

[The Senior Deputy Speaker]
us a letter as part of the House of Lords consultation on the implementation of the process, among 27 others who responded. I shall read just one sentence from that letter:

"Any self-regulatory regime must include a strong, resilient and robust independent element".

The spirit of today's debate shows that we have done that.

I mentioned at the beginning that this process is not finished. Naomi Ellenbogen has been mentioned; I shall be meeting her next week. She has asked to meet me and others in the House and I do not see why others, if they wish, should not contact her. I believe that some 121 people have approached her and that she has spoken to more than 170. The more people she speaks to, the better, and I encourage Members to do that.

A couple of comments were made about staff and support for staff—I think by the noble Baroness, Lady Berridge. When I received the letter from the 74 members of staff, I spoke to quite a few individually; they were depending on our putting in a robust process. All I can say is that, without going back to them in detail on that, my feeling is that they feel that we are taking a step forward; so both Members and staff feel that something positive is happening here.

A point was made about what support there is. Helplines are envisaged and there is support for mediation. There is also the issue of signposted professionals. The professionals who have been engaged here have been in this field of mediation for a long time, and the information we have, in both the Commons and the Lords, is that they will support the process. This has balanced the relationship between complainant and Members; it is important that both have the support of the House. I am confident that we will get a new system, but until the new conduct committee is established, I will be happy to engage with people and pass on what is said. However, if your Lordships pass this Motion today, this will be my last time at the Dispatch Box on this issue. I thank all noble Lords for their contributions and for the spirit of the debate today.

Motion agreed.

Overseas Students: TOEIC Tests

Statement

4.55 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will now repeat in the form of a Statement the Answer given by my right honourable friend the Immigration Minister to an Urgent Question in the other place. The Statement is as follows:

"Mr Speaker, test centres operated on behalf of ETS were the subject of a BBC 'Panorama' programme in February 2014 which aired footage of the systematic cheating in English language tests at a number of its UK test centres. Further investigation demonstrated just how widespread this was. Its scale is shown by the fact that 25 people involved in organising and facilitating language test fraud have received criminal convictions. They have been sentenced to a total of over 70 years' imprisonment, and further criminal investigations are ongoing.

There was also a strong link to wider abuse of the student visa route. An NAO report of 2012 made it clear that abuse of that route was rife and estimated that in its first year of operation, 2009, up to 50,000 used the tier 4 student route to work, not study. Most students linked to the fraud were sponsored by private colleges, many of which the Home Office already had significant concerns about, predating the BBC investigation. Indeed, 400 colleges which had sponsored students linked to ETS had already had their licences revoked before 2014.

Over the course of 2014, ETS systematically analysed all tests taken in the UK dating back to 2011—over 58,000 of them. Analysis of the test results identified 33,725 invalid results and 22,694 questionable results. Those with questionable results were given the chance to resit a test or attend an interview before any action was taken. People who used invalid ETS test certificates to obtain immigration leave have had action taken against them.

The courts have consistently found that the evidence for invalid cases created a reasonable suspicion of fraud and was enough for the Home Office to act upon. It is then up to individuals, through either appeals or judicial reviews, to refute this. Despite this, concerns have been expressed about whether innocent people could have been caught up in this. The Home Secretary has listened to the apprehensions of some Members, including the honourable member for East Ham, and has asked officials for further advice. The National Audit Office is also currently in the process of concluding an investigation into the handling of these issues. This is expected to be published next month. Obviously, my right honourable friend the Home Secretary has taken a close interest in this issue and will be reviewing the conclusions of the NAO, and, once he has time to consider it in full, will be making a Statement to the House".

5 pm

Lord Rosser (Lab): I thank the Minister for repeating the Answer to an Urgent Question in another place.

In his first appearance in that capacity in the Commons about a year ago, the Home Secretary gave an assurance that he would investigate the Test of English for International Communication scandal. Why are we still awaiting a decision when about 34,000 student visas have been cancelled? The delay cannot be laid at the door of the NAO, as the Answer to the UQ appears to suggest. Is the Home Secretary aware of the damage, distress and loss caused to international students wrongly accused of cheating in their English language test, some of whom have had to end their studies and some of whom have been wrongly deported?

Is the Secretary of State continuing to rely on evidence from Educational Testing Services as to the alleged scale of cheating—evidence which has been discredited by both expert opinion and, repeatedly, in the courts? What was the financial settlement reached by the Home Office and ETS after its licence was revoked? ETS thinks that just about everyone who sat

the test either cheated or had questionable results, a figure that was as unbelievable as ETS itself appears to be. How many appeals have been heard against revocation, refusal or curtailment of student visas on TOEIC grounds, and how many have been won by the applicants?

Finally, what lessons has the Home Office learned from this debacle about English language tests and its hostile environment policy, which is obviously still in play? If I cannot have full answers to these questions today, I should be grateful for a written response.

Baroness Williams of Trafford: I thank the noble Lord and welcome him back to his place on the Front Bench. He asked several questions, the first being "Why the delay?" This is an issue of widespread fraud—setting up and using these test centres and colleges— that took place over several years. He will know that, under this Government and indeed under the coalition Government, we have now closed more than 900 such colleges since 2011.

On those who may be wrongly accused, the noble Lord will recall the report by Professor Peter French, which concluded that the number of false matches was likely to be very small and that the system would give people the benefit of the doubt, so the number of people wrongly accused was likely to be extremely low. The courts have always said, even when finding against the Home Office on individual facts of case, that sufficient evidence should be there to make an accusation of fraud, but it is up to the individual then to rebut it. However, we recognise the concerns; we do not refute the concerns raised by a Member of the other place. That is why the Home Secretary has now asked for further advice and why the NAO is also investigating, and the Home Secretary will respond when he has sight of both that advice and the NAO's findings.

The noble Lord asked whether a settlement was reached. It was. For reasons of commercial confidentiality, I cannot discuss that, but I will see whether I can find out more for him.

The noble Lord also talked about the hostile environment. This is not about being hostile to people who want to work or study in this country. To use a study visa in order to work is to try to game the system, which is exactly what was going on here and why we closed down so many of those colleges.

Lord Paddick (LD): My Lords, Fatema Chowdhury came to the UK from Bangladesh in 2010 and finished her law degree in 2014 at the University of London. She was at one stage detained for a week after being accused of cheating in the English test, which she denies. I appreciate that the Minister cannot comment on individual cases, but can she say how likely it is that an individual had to cheat in an English language test but then went on to successfully complete a double degree at the University of London? Why is the hostile environment towards immigrants created by the Home Office still alive and kicking?

Baroness Williams of Trafford: My Lords, the issue at the heart of this was not the questioning of people's competence in English but the fact that a fraud was committed. I cannot say to the noble Lord how many people found themselves in detention, because we do not disaggregate those sorts of figures. Of course, as for individual cases, I am not at liberty to discuss them.

Lord Hannay of Chiswick (CB): My Lords, I am entirely prepared to await the reports now under consideration which the Minister says will be the object of Statements in both Houses when their conclusions are reached, but could we please not elide the action taken quite correctly by the coalition Government to close down a huge number of dodgy language schools—which all of us strongly supported and where we believe a good job was done—with what is going now? Let us start a little bit later than that and see what is being done now. For example—perhaps the Minister could reply to this, too—it is not sensible to create the impression that a huge number of people on education visas are overstaying. We now have statistical evidence that it is a tiny number, yet for years Home Office Ministers stood at the Dispatch Box saying that it was a huge number. The interest of our universities, which are a major national asset, was not well served by stories of the sort that we are hearing now. As I said, it is perfectly reasonable for the Minister to say, "Wait, please, till the NAO has reported; wait till the Home Secretary has had a glance at that", but can we not rake over all these old stories when we come to the report but start from somewhere a little nearer the present time?

Baroness Williams of Trafford: I am grateful to the noble Lord for making that point, because we need to start from where we are now. The system in place was a very old one and, as he said, the coalition Government did much to close down those dodgy colleges, as he called them. The same NAO found that well over 97% of students are compliant with their visas, which is very good news. We would not want to conflate our welcome for those coming to this country to study with what was a very dodgy process—fraudulent, in fact. I welcome what the noble Lord said, and I would not want to conflate what happened then with a very good news story now: a 28% increase in the number of international students since 2010 and a 10% increase in only the past 12 months.

Baroness Blackstone (Ind Lab): My Lords, can the Minister reassure the House that, in those cases where after further investigation it is discovered that individual students have not cheated nor committed any kind of fraud, they are properly compensated for the fees that they paid, the loss of their courses and a loss of income in employment?

Baroness Williams of Trafford: I thank the noble Baroness for making that point. Of course, it will be in the light of the NAO report and the additional advice of the Home Secretary that next steps will be able to be articulated to both Houses.

Lord Dholakia (LD): My Lords, what is being done to change the culture within the Home Office in how it deals with these applications? A number of immigration investigations conducted in the past provide examples of people who were eligible to come to this country having to go through a process which is devised to

[Lord Dholakia]
keep people out. A fundamental change in the way we look at students in this country is required. What is being done to improve on that?

Baroness Williams of Trafford: I know the House's feeling on this subject. I have said many times at this Dispatch Box that there is no cap on the number of international students who can come to this country to study. Going back to the point made by the noble Lord, Lord Hannay, that matter should not be conflated with the people who will use a route simply to get into this country. Those colleges were therefore rightly closed down under the previous coalition Government. On the culture of the Home Office, I think that it acted rightly in closing down bogus colleges, but we should never lose sight of the contribution made by international students to this country and its education system.

Social Media and Health

Statement

5.10 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con): My Lords, with the leave of the House I shall now repeat a Statement made today by my right honourable friend the Secretary of State for the Department of Health and Social Care, Matt Hancock. The Statement is as follows:

"Mr Speaker, I would like to update the House on yesterday's social media summit and the progress we have made to tackle online harms to health. We called this summit to bring together principal social media companies, including Facebook, Instagram, Twitter, Pinterest and Google, as well as Samaritans and the eating disorder charity, BEAT. Along with the Education Secretary and the Minister for Suicide Prevention, this was the second such meeting I have held on how we can protect people, particularly children, from online content that promotes eating disorders, self-harm and suicide, as well as on how we address the growing problem of anti-vaccination misinformation.

Social media companies have a duty of care for people on their sites. Just because they are global does not mean that they can be irresponsible. We have been resolute that we will act to keep the internet safe, especially for children. I am grateful to the companies for their engagement. We have all seen and heard about tragic cases of vulnerable children turning to self-harm, even taking their own lives, after accessing graphic images online promoting, even encouraging, suicide and self-harm. In the same way, we know that online content on eating disorders can be extremely harmful to vulnerable children and young adults. I have met the parents of children brought up in loving homes who had no idea of the dangers their child was being exposed to on their smartphone or tablet while they were supposed to be safe at home. We all know parents whose children have been affected. For all of us, this is very close to home. We must do everything we can to keep our children safe online.

I am pleased to inform the House that, as a result of yesterday's summit, leading global social media companies have agreed to work with experts from Samaritans to speed up the identification and removal of suicide and self-harm content, and create greater protections online. Not only will they financially support Samaritans in its work but, crucially, Samaritans suicide prevention experts will determine harmful and dangerous content. The social media platforms committed to either remove it or prevent others seeing it, and help vulnerable people to get the positive support they need. The mainstream media already have well-established codes of practice and training to remove material that promotes suicide and self-harm. In my experience of the British media, they act with great responsibility. It is time that social media companies do the same.

This partnership marks, for the first time globally, a collective commitment to act, build knowledge through research and insights, and implement real changes that will ultimately save lives. Social media companies also gave us an update on the actions they have already taken. Following the first summit in February, Instagram now has a global policy of removing all graphic self-harm imagery. Other sites have also taken action but there is much more to do and much more content to remove.

Importantly, the commitments that companies made at yesterday's summit are what Samaritans asked for and are a positive step forward. The progress we have made so far shows that we can effect positive change, but I know that this House feels strongly that just because these companies are global does not mean that we cannot determine society's rules and expectations. We are prepared to act on this. My right honourable friends the Home Secretary and the Culture Secretary recently published the online harms White Paper, which sets out the proposed regulatory framework for addressing online harms. It sets out a new statutory duty of care to require companies to take more responsibility for the safety of their users and tackle harm caused by content or activity on their services.

Compliance with this duty of care will be overseen and enforced by an independent regulator, which will be responsible for producing codes of practice that will explain what companies need to do to fulfil their duty and the robust action they need to take to remove illegal or harmful content. The White Paper also proposes sharing of information, research and best practice to improve the understanding of harmful content across the industry.

The summit also allowed us to discuss how we can work together to tackle another online danger: the spread of anti-vaccination misinformation. Since Edward Jenner's discovery, vaccination has saved hundreds of millions of lives around the world. There are few innovations that have reduced human misery so much. After clean water, vaccination has prevented more deaths and disease than anything else in human history. The science is settled: vaccination saves lives. It not only protects your children, it protects other vulnerable people who cannot do anything about it themselves. Failure to vaccinate puts their lives at risk. The rise of social media now makes it easier to spread lies about vaccination, so there is a special responsibility on the social media companies to act.

Coverage for the measles, mumps and rubella vaccine in England decreased for the fourth year in a row last year to 91%, and there was a steep rise in confirmed

measles cases from 259 to 966. We forget that measles is a horrible disease. We have one of the most comprehensive vaccination programmes in Europe. The well-documented problems in America and on the continent are worse than here, but we are determined to get ahead of this problem because there are real and devastating consequences for people from the failure to vaccinate. Our action to promote vaccines is not limited to removing anti-vaccination misinformation. We are promoting the objective facts about the importance of vaccination. We are increasing funding to primary care to improve access, and our prevention Green Paper will set out further actions.

Social media can be a great force for good and can help us to promote positive messages, but it is the responsibility of us all that this new technology, with all its great potential and power, be moulded to the benefit of society. We will not duck this challenge. I commend the Statement to the House".

My Lords, that concludes the Statement.

5.16 pm

Baroness Thornton (Lab): My Lords, I thank the Minister for repeating this important Statement. This discussion provides a good backdrop to the debate to follow, on the online harms White Paper. There are essentially two matters of concern here: online harm and false news, which includes the health impact of anti-vax material.

After the scandal that followed the death of Molly Russell, and the bravery of her father in speaking out against the online harm perpetrated by platforms such as Instagram, we were promised decisive action, and the tragedy gave serious momentum to the content of the online harms White Paper. Mr Russell tweeted a link to a *Telegraph* article yesterday, saying that he had challenged Instagram and the company has said that it will now act. Coming out of yesterday's hour-long meeting with the industry, the Secretary of State announced a few hundred thousand pounds in donations to the Samaritans for research into online harm, which is of course welcome. However, these social media platforms must be made to take responsibility for the harmful content and dangerous fake news they host.

Instagram said that it would ban all graphic and non-graphic images of self-harm in February. As far as I can see, it has not done so. Like my honourable friend Jon Ashworth MP in the Commons earlier, I did a test a couple of hours ago. To be more accurate, since I am not an Instagram subscriber, I got my researcher to demonstrate for me what happens if you type into Instagram's search engine the term "self-harm". You get several columns of results; the first is called "Top Results" and does not produce any links. It says that no content can be found, which is good, but I am afraid the content is still there. If you click on the next column, headed "Accounts", there are hundreds of accounts concerning self-harm that you can access. If you click on the third column, headed "Tags", there are 725,000 posts that mention self-harm. Some may direct you to get help but most will not, and some show graphic self-harm pictures and videos. Some of them romanticise, if you can imagine such a thing, this activity. As any health expert will tell you, for those youngsters—some are very young indeed—these are the triggers to self-harm.

The noble Baroness says that Instagram now has a policy of globally removing graphic self-harm imagery. As far as I can see, it has not done so yet. The same applies to websites concerning suicide. If you search for "#killmyself", you will find huge numbers of results; ditto if you search for "eating disorders". Research shows that 22 % of young adults report self-harm and suicide-related internet use. This is a crisis. There may be many reasons for this figure, and many solutions, but the internet must take responsibility for the content it contributes to this. Did the Secretary of State challenge Instagram on the assertion that it had taken down content? Has he done what my honourable friend and I did and tested it himself?

Did Instagram give a timescale, or is it waiting for the Samaritans' research? That seems to me to be not an acceptable solution right now. I welcome the involvement of the Samaritans, but not if it means a further delay to action. It does not need research to know that the content of some of these sites is totally unacceptable and needs to be got rid of. Perhaps the noble Baroness can explain what the Samaritans' research will be used for and its timescale? These are very, very rich organisations, and a few hundred thousand pounds to the Samaritans does not mean they can offload their responsibility to deal with this content; they have billions of pounds that can be used for this purpose.

The reason I am concerned is that these companies have form. Over many years of warm words and no change, they have consistently resisted taking responsibility for the content they carry. They have had to be pulled, kicking and screaming at every turn, into behaving with responsibility. I repeat: will the Secretary of State test this by looking at it himself?

The content of these platforms is why the White Paper is so urgently needed. I want to ask only one question about it; the debate will take place in a few moments and my noble friend will certainly pose many questions. However, if a young person even accidently accesses, for example, a self-harm image, there is a likelihood that the algorithms—which look at what every one of us is accessing online—will pick this up. While noble Lords may receive unwanted information about house extensions or the cost of flights, such a youngster may find that they are being led to more sites depicting self-harm. In other words, the algorithms can reinforce harmful content. How will the Government seek to mitigate this unintended consequence?

I turn now to the use of false information in anti-vax campaigns, which has led to a massive increase in outbreaks of measles, as the noble Baroness said in her Statement. The issue here is not just the dangerous anti-vax propaganda on platforms such as Facebook, or indeed Amazon. A story in today's *Guardian* says that a young person was delivered a book, and inserted in it was an anti-vax leaflet. One has to ask how on earth it got there. The wider issue is that of public health policy and resourcing.

Are the Government considering banning unvaccinated children from schools in England, as the Secretary of State suggested on the radio last week? I hope not.

[Baroness Thornton]
Do the Government have a clear vaccination action plan? Public health services have been cut by £800 million and, in recent years, health visitors have been cut by 8% and school nurses by 24%. This will not help with the vaccination drive. Will the Government commit to reversing public health cuts and cuts to health visitors, and invest in general practice to meet the recommended 95% national vaccination coverage rate, as recommended by the World Health Organization?

Baroness Jolly (LD): My Lords, I too thank the Minister for repeating the Statement. I am sure nobody in your Lordships' House doubts the benefits, as well as the dangers, of social media. As the noble Baroness, Lady Thornton, has just stated, the tech giants really need to recognise their responsibilities by taking action now to remove material that could damage the vulnerable.

I would like to link the Statement with the *NHS Long Term Plan*. In it, there is a commitment to increase spending on children's and adult mental health services. What figure will this amount to? How much of it does the department anticipate will be earmarked for technology? Where will it be directed? Who will receive the money? What does the department expect the NHS to do to support this move? What criteria will govern its use?

Vaccination uptake is clearly a current issue. How does the department anticipate that social media can help and not hinder the uptake of these life-saving shots?

Baroness Blackwood of North Oxford: I thank the noble Baronesses, Lady Thornton and Lady Jolly, for their questions. They are right: the Health Secretary has taken a personal interest in this issue and is determined to drive this policy forward, not only through the work of my honourable friend the Minister for Suicide Prevention but through the prevention Green Paper mentioned in the Statement. He will ensure that he keeps a personal eye on this issue.

I turn first to the question raised about the social media company Instagram saying that it has a global policy of removing graphic self-harm images—other sites also say that they have taken action—so that if you search today you cannot find such images, although on top searches you can find them through accounts in other places. It is recognised that there is much more to do and more content to remove. That was one reason why the Secretary of State convened these summits. A more coherent approach to this work is needed. While I recognise that the noble Baroness feels it is obvious what self-harm content is, the approach that has been taken as an outcome of the summit is encouraging. It has led to the strategic partnership, which will ensure that the policy that has come forward from the social media companies will now lead to effective implementation. Such companies will be held to account, not only through the strategic partnership but through the outcomes of the online harms White Paper. There will be not only a duty of care but a regulator associated with it. Those combined strategies are encouraging.

The noble Baroness asked about the unintended impact. This is where the second set of proposals to have come out of the summit is extremely important. As well as developing industry-wide standards on identifying harmful suicide and self-harm content and agreeing robust responses to it, it will lead to a clearer understanding of what is harmful content. It will also lead to better training for mediators to respond to it and to support vulnerable users, which I think is exactly the point she was after.

On the important questions about public health spending in response to anti-vax campaigners and ensuring that we have a robust vaccination programme, the noble Baroness is right that vaccination programmes rest on the basis of strong public health support. We have a £3 billion ring-fenced public health spend every year and we must ensure that that goes forward. It will be a key part of the public health bid in the spending review and part of the Green Paper that is to be published. I know she will look forward to holding me to account on the effectiveness of that Green Paper.

The noble Baroness, Lady Jolly, raised an important question about the effectiveness and benefits of social media. We do not think that compulsory vaccination at the moment is an evidence-based policy. The Health Secretary has said that nothing is off the table and this is the right response given the serious concerns of other countries. At the moment, in the UK, we operate a system of informed consent. This is the right thing to do, given our high uptake. There is no immediate plan to change it and we strongly encourage families to take up vaccinations when offered.

One of the ways in which we spread information about the effectiveness of vaccines, and shall continue to do so, is through our online accounts at nhs.uk, which are highly trusted. In the UK the public attitude to and confidence in vaccination is monitored through a series of annual surveys, including Public Health England's annual attitudinal survey, which show high levels of trust in health professionals and the NHS. The public trust the NHS as a source of advice and that is why our digital media output, through the NHS, our social media outlets and nhs.uk, is a crucial way of encouraging and maintaining trust in vaccinations. We shall continue to drive it forward.

5.30 pm

Lord Lansley (Con): My Lords, my noble friend referred to the discussion with the social media companies about vaccination, but the Statement did not refer to any specific commitments on their part or even acceptance of a responsibility in relation to disinformation about vaccination. Does my noble friend agree that it is important to understand why immunisation rates and vaccination coverage have dipped? I was Secretary of State when we reached the highest level of, I think, 94% for MMR following a period from 2007, bringing it up from 80%. It has not dipped back to those levels, but we need to understand why this has happened. If it is about disinformation on social media, what have the companies said about this up to this point?

Baroness Blackwood of North Oxford: The social media companies accept that they have a responsibility to deal with anti-vaccination misinformation, harmful information relating to eating disorders and general health-related misinformation that can be found online. The Health Secretary has been clear with social media companies that they are expected to address these harms.

The Department of Health looks forward to working with them on it. My noble friend is right when he says that our levels of vaccination are extremely high compared to other countries', but we must not be complacent and must ensure that we not only maintain the current vaccination rates but drive them further and do not tolerate any further permeation of the pernicious anti-vaccination messaging which is starting to leak out online.

Lord Scriven (LD): My Lords, the approach being taken is welcome, but in itself probably will not be enough. We cannot ban and regulate everything that goes on on the internet. For example, a blogger who may have nothing to do with health may have 80,000 to 100,000 followers and may blog about a health issue, and that becomes fact. What is needed in the modern world is alternative narratives; that is what is seen on social media. Rather than just using statutory websites and web pages, what is the NHS doing to adopt a much smarter, blogging/lifestyling approach—involving those who influence young people and who use these media outlets—and to use effective alternative narratives that work, rather than just putting all its eggs in the banning approach basket?

Baroness Blackwood of North Oxford: I do not have access to the statistics now, but I know that a lot of research has gone into assessing the amount of peer-to-peer support young people access online from medical charities and other charities via social media routes, or other online routes such as blogs or influencers who engage very effectively with various different medical charities. There is some very encouraging evidence that social media can be used in this way to direct people to the help and support they need, if it is used effectively. As the noble Lord says, we must be very careful not to throw the baby out with the bathwater and must produce alternative narratives to direct young people and vulnerable people to access the support they need in the most effective way. This is done very effectively by many organisations. It is a matter of making sure that, wherever possible, young people and vulnerable people are protected as much as possible from harms that they really should not be exposed to.

Lord Brooke of Alverthorpe (Lab): I am grateful for the Statement. I want to address the social media aspect rather than vaccination. We have a paper from DCMS on social media—the online harms White Paper. The Minister mentioned coherence; I am finding the situation increasingly incoherent, and I will be raising this topic later. Who is giving a lead in this area? The Statement said:

"This partnership marks, for the first time globally, a collective commitment to act, build knowledge through research and insights, and implement real changes that will ultimately save lives".

It also said that there was a second summit, but DCMS and the Home Office were not involved. The Education Secretary has been attending those meetings. Are more meetings planned? What agenda will be pursued at those meetings? Which departments will be involved? Who is going to take the lead?

Baroness Blackwood of North Oxford: The noble Lord asks a number of questions, but I think the nub of the issue is to ensure coherence across government in approaching an important and complex policy issue. He is right, in that the correct approach is to ensure effective implementation of our significant policy commitments in the online harms White Paper and in the outcomes from this summit. Of course, DCMS and the Home Office have been engaged in different policy proposals, development and engagement, and they will continue to be so. The Department of Health and the Department for Education have been leading on this in relation to the mental health Green Paper because of the policy specialisms around vaccinations, suicide and harm and the effect on young people. That work started some time ago so it makes sense for the department to continue, but it will be working hand in glove with the online harms White Paper. I am sure that that discussion will continue in the next debate this afternoon.

Online Harms White Paper

Motion to Take Note

5.37 pm

Moved by ***Lord Ashton of Hyde***

That this House takes note of the *Online Harms White Paper (CP57)*.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I repeated a Statement in the House on the online harms White Paper on the day that we published it, 8 April. There was not enough time for all noble Lords who wanted to contribute to do so, and so the Chief Whip kindly made me available for noble Lords to make their points at greater length and with the benefit of more time to think about this difficult problem. I am grateful for the opportunity to listen to noble Lords' views.

This White Paper is an important document and a world first. For many people nowadays, the internet is an integral part of daily life. However, illegal and unacceptable content and activity remain far too prevalent online. There is currently a range of voluntary initiatives that try to address some of these problems, but while there has been some progress, the efficacy and pace of these actions have varied widely across different companies. These inconsistencies still leave too many users unsafe online, and the current regulatory landscape lacks the scope and coherence to tackle this complex set of problems. That is why we have published this White Paper, which sets out an ambitious and coherent framework for tackling harmful content and activity. This will make companies more responsible for their users' safety online, especially that of children and other vulnerable groups, and will help build trust in digital markets. The online harms we are tackling include behaviour that threatens users, particularly children and the vulnerable, and behaviour that undermines our national security or aims to fracture the bonds of our community and our democracy.

To tackle these harms, we intend to establish in law a new duty of care on companies towards their users, overseen by an independent regulator. This regulator will set clear safety standards, backed up by mandatory reporting requirements and effective enforcement powers. Companies will be held to account for tackling a

[Lord Ashton of Hyde]
comprehensive set of online harms ranging from illegal activity and content to behaviours that might not be illegal but are none the less highly damaging to individuals and society. They will be required to take particularly robust action to tackle terrorist content and online child sexual exploitation and abuse.

We recognise that a very wide range of businesses, such as retailers, consumer brands and service providers of all kinds, currently enable some degree of user interaction or user-generated content online. Although we will minimise excessive burdens according to the size and resources of organisations, all companies will be required to take reasonable and proportionate action to tackle harms on their services.

The regulator will have sufficient enforcement powers to take effective action against companies that breach regulatory requirements and to uphold public confidence, while also being fair and proportionate. These will include the power to levy substantial fines, and we are consulting on even more stringent sanctions.

As a world leader in emerging technologies and innovative regulation, the UK is well placed to seize the opportunities presented by the measures set out in the White Paper. We want technology itself to be part of the solution, and we propose measures to boost the tech safety sector in the UK, as well as measures to help users manage their safety online. Furthermore, we believe that this approach can lead to a new, global approach to online safety that supports our democratic values and promotes a free, open and secure internet. The Government will look to work with other countries to build an international consensus behind it. We will seek to work with international partners to build agreement and identify common approaches to keep citizens safe online. Having these relationships will support the UK's ability to put pressure on companies whose primary base is overseas.

Since the White Paper was published earlier this month, the reaction has been generally positive. Noble Lords who spoke in the earlier debate, and Members in the other place, welcomed the Government's action in this crucial area, and much, although not all, of the media coverage has also been supportive. However, I would like to focus on a couple of areas where our proposals have come under close scrutiny.

First, there has been comment in some newspapers that the measures we have set out in the White Paper will fetter the freedom of the press. I reassure noble Lords that that is not the case. The Government strongly support press freedom and editorial independence. A vibrant, independent, plural and free press that is able to hold the powerful to account is essential to our democracy. Journalistic or editorial content will not be affected by the regulatory framework that we are putting in place. Furthermore, the regulator will have a legal duty to pay due regard to protecting users' rights online—in particular, their privacy and freedom of expression. The regulator will not be responsible for policing truth and accuracy online.

There is a question of whether newspapers' comment sections will fall within the scope of the online regulator. We are consulting on proposals for the statutory duty of care to apply to companies that allow users to share or discover user-generated content or interact with each other online. However, as the Secretary of State made clear in the other place, where these services are already well regulated, as is the case with IPSO and Impress regarding their members' moderated comment sections, we will not duplicate those efforts.

The second area where concerns have been expressed since the White Paper's launch concerns the potential burdens on small and medium-sized enterprises. Companies within scope will include SMEs and start-ups, but a key element of the regulator's approach will be the principle of proportionality. The regulator will be required to assess companies according to their size and resources. The regulator will also take a risk-based approach, focusing initially on companies whose services pose the biggest risk of harm to users, based on factors including the scale of the service. The regulator will have a legal duty to pay due regard to innovation—indeed, the regulatory framework set out in the White Paper is pro innovation and will preserve the openness and enterprise that lie at the heart of the UK's flourishing tech sector.

I believe that we have both a duty to act to protect UK citizens and an opportunity to lead the world on this issue. I firmly believe that this White Paper is a valuable step forward in creating a safer and stronger internet that works for the benefit of all humankind. To get this right, we will need to work with our civil society, our technology sector and, of course, Members of both Houses. We are consulting on the White Paper and have already received around 1,000 responses. As part of that, I am looking forward to hearing noble Lords' contributions. I beg to move.

5.45 pm

Lord Griffiths of Burry Port (Lab): My Lords, I am very happy to contribute to the positive way in which the Minister has presented the case. I am delighted that, as promised by the Government, time has been made for adequate consideration of the issues in this debate. However, I am disappointed that more people are not here. There was such a swell of enthusiasm when this matter came before us the first time that I thought we would have a much better-peopled debate and a longer list of speakers. However, we are here and the ideas are waiting to be explored.

I am happy that this debate is taking place during the period of consultation and I hope that the record of this debate will contribute to the documentation being considered. It will make it 1,001 contributions thus far.

Bold claims have been made for what is hoped to be the result of this process. By the way, it is good to start with a White Paper and with regular rounds of conversations. The bold claims include the Government saying that they are going to create the safest place to be online and that this will be a world first, with no one having done it before. They also say that it could be part of a global response to perceived needs in this area. I feel that we are making something available for our country by way of regulation in respect of a global industry that is very difficult to contain within any framework that I can imagine. We will be hearing from various speakers about regulation, so I shall not deal

with that now. The duty of care has already been mentioned. I wish that the digital charter had crept somewhere into the narrative because there are lots of ethical issues that would make it very appropriate to consider it.

There is much else in the White Paper but I want to focus on the list of harms on page 31. I shall not go through them all but I note the three columns headed "Harms with a clear definition", "Harms with a less clear definition" and "Underage exposure to legal content". There is a list beneath each heading. I want to compare those lists with the ones that appear in another DCMS document. I was reading it not for this debate, to be quite honest, but for the debate last week on advertising and the internet. It came out of the same stable as the White Paper. I am calling it the Plum report because that is what is on the front cover. It is called *Online Advertising in the UK*. It was commissioned by the Department for Digital, Culture, Media and Sport, and it was published in January 2019, when drafts of the White Paper must have been in DCMS. As I said, it is from the same stable. On pages 17 to 19 of this report there are three lists of potential harms to be found online. They have different names from those in the White Paper: individual harms, societal harms and economic harms. This document was produced with the debate on the Communications Committee's report on advertising and the internet in mind, and to feed into the Cairncross report on local journalism. But the two lists—in the White Paper and the Plum report—must be looked at together. They are rather unlike each other and point to things that we dare not ignore.

After the debate on the Statement, to which the Minister referred, I had a conversation on the Floor of the House with the noble Baroness, Lady Neville-Rolfe, who I am sorry to say is not in her place today. She was worried about the absence in the White Paper of any reference to economic harms. I do not believe she was thinking about the responsibilities of small and medium-sized businesses, which would be the same, proportionately, as those of other institutions and bodies; she was talking about online harms to these small and medium-sized businesses. These concerns have been picked up by other commentators too.

The list of economic harms in the Plum report includes:

"Product bundling and exclusivity … 'Walled Gardens'",

on which stakeholders express concern that it is hard,

"to export user ID data collected during advertising campaigns".

The list also includes:

"Lack of transparency in programmatic display … Differential treatment"—

whereby some companies are given better treatment and so on—as well as "leveraging", "engagement with industry initiatives", in which market players "do not always adopt" industry standardisation, and "control of web browsers". It is quite a list, and of a different kind from the one in the White Paper. I wanted to keep these lists together.

After that same debate, I had another conversation, this time with the noble Baroness, Lady O'Neill. It is always a frightening experience to talk to the noble Baroness; she is clever and I do not feel that I am. If I felt even a little clever, I would feel much less so after a conversation with her than I did when I began. She is a quite remarkable woman, whose recent publications are on the subject of trust. Her earlier work was on Immanuel Kant, whom I have barely ever understood; the right reverend Prelate will be better versed in him than I am. These books on trust, however, seem to be looking, as a philosopher should, at a very important subject. Anyway, in this conversation, the noble Baroness expressed her worries about the lack of reference in the White Paper to societal harms. She and I have been greatly impressed by—and shared our impressions of—the recent book *Democracy Hacked* by Martin Moore, which looks forensically at the damage done online to our democratic institutions.

On societal harms, the list revealed in the Plum report is again very revealing. It includes,

"financial support for publishers of offensive or harmful content"—

that is, providing means of monetisation for those creating harmful content on platforms—as well as discrimination, which can occur either by design or inadvertently when advertisers target data to categorise people by gender, ethnicity and race. The list also includes "non-transparent political advertising", whereby anonymous actors may "influence elections and referendums".

It is interesting that in tomorrow's Oral Questions, the noble Baroness will ask a Question on this subject. I am sure she will want to quote the sympathy of the Information Commissioner, Elizabeth Denham, on this very matter. The contribution I want to make as the subject opens up today is to identify and, in some way, feel comfortable with, the range of online harms that we are referring to. They tend to be, as in the White Paper, to do with the plight of individuals. If that is the desired outcome, it ought to be said clearly that this is what we are dealing with. But online harm is a much more generic term and the economic and societal aspects deserve to be mentioned.

I conclude by saying that the Secretary of State has set himself a very difficult target. He wants a Bill that will put the UK's house in order on a truly global matter of concern. How that will be done we wait to see. The proposals aim to get the right balance between the long-overdue regulation in this area and continuing adherence to the principles of free speech; the Minister has already given assurances on that. He is also looking to produce legislation that, while he gives it his best attention, will be overtaken by rapid development in the field of technology, even as we debate the Bill. We must look for a Bill that is light on its feet, flexible and can be put to work, rather than something static, heavy and fixed that will be out of date as soon as it becomes an Act of Parliament.

I look forward to hearing other views because, at this stage, this is a conversation. I look forward to shaping a document that, ultimately, will go beyond what we are comfortable with as a step in the right direction and needs to go much further.

5.55 pm

Lord McNally (LD): My Lords, it is always a pleasure to follow the noble Lord, Lord Griffiths of Burry Port, and I certainly want to follow the spirit of his

[LORD MCNALLY]

intervention. Last Thursday, we had something of a dress rehearsal for this debate when we discussed the Communications Committee report *UK Advertising in a Digital Age*.

In the course of that debate the right reverend Prelate the Bishop of Durham quoted his son saying:

"Dad, you haven't a clue … I have been raised in this digital world. I am inside it, day in and day out. You just don't get it and your generation will struggle to".—[*Official Report*, 25/4/19; col. 725.]

I was particularly sensitive to those comments because I suspect that my own children, all in their 20s, have a similar view of my capabilities. I am happy that my noble friends Lady Grender, Lady Benjamin and Lord Storey, all more savvy in this area than I am, will follow.

The truth is that the gap in comprehension between legislators and practitioners was there for all to see when the CEO of Facebook, Mark Zuckerberg, appeared before a Senate committee. The question out there is whether the Government and Parliament—as the noble Lord, Lord Griffiths, has just indicated—are flexible and nimble enough to address genuine public concerns and stay ahead of the curve as some of these technologies develop at breakneck speed. Perhaps it is a job for the Youth Parliament rather than this one. As I said last Thursday, many of our procedures and conventions have their roots in the 18th century not the 21st. In approaching this, therefore, we have to look not only at the legislation but at how we consult and involve people in introducing steps as we go forward.

As the Minister has said, there has been a general welcome for the direction of travel proposed by the White Paper. There are harms which need to be addressed, as demonstrated by the list referred to by the noble Lord, Lord Griffiths, and as explained to us by the noble Baroness, Lady Blackwood, in the Statement that preceded this discussion.

It is true that the White Paper is not without its critics. Last week, in evidence to a DCMS sub-committee, the Information Commissioner, Elizabeth Denham, expressed surprise and disappointment that the White Paper had not,

"done a comprehensive examination of political advertising and oversight that's needed in this space",

and the Electoral Commission has called for a range of measures to strengthen its oversight and promote transparency in digital campaigning. The Alliance for Intellectual Property caught some of the points made by the Minister and the noble Lord, Lord Griffiths, about the effect on business. It said:

"The paper fails to address the harmful activity that affects businesses, in terms of revenue generation, investment and creative innovation".

Another group, Defend Digital Me, warns against giving the Home Office carte blanche to regulate the internet, saying that children must not be the excuse that is talked up into a reason enabling greater control of the internet by the Home Office. It expresses particular concern about paragraph 21 of the White Paper.

There are real and present dangers out there to be addressed, but also concerns that ill thought-out measures could undermine some of the real benefits that the internet has brought us. The challenge is to produce an internet that is open and vibrant, yet also protects its users from harm. The days are long gone when public opinion was content to see the internet as a kind of Wild West beyond the rule of law. We have now reached a situation where Mark Zuckerberg of Facebook said:

"If the rules for the internet were being written from scratch today, I don't think people would want private companies to be making … decisions around speech, elections and data privacy without a more … democratic process".

Quite so.

Nor are we starting from an entirely blank sheet of paper. In the Information Commissioner, we have someone with authority and respect both at home and abroad. We have an Electoral Commission that will need extra resources and new powers to protect our democracy from abuse carried out using new technologies. Ofcom, a creation of the Communications Act 2003, has proved a highly successful and respected regulator. We also have good examples of international co-operation in the field. The EU general data protection regulation is now embedded in the Data Protection Act 2018 and is a good example of addressing online harms via international co-operation. I understand that the GDPR is now being looked at by a number of other jurisdictions, which are using it as a template for their own legislation. Taking up the point that the Minister made in his opening remarks, I see no reason why we should not aspire to global conventions which the whole world can adopt.

In so doing, we must be aware that elsewhere in the world, authoritarian Governments are attempting to insulate themselves from transparency and accountability by trying to curb and shackle the internet, precisely because of its ability to shine light into dark corners. Of course we want to see the freedom of the press upheld. I think the technology is taking us into difficult areas here. There is an overlap between print media organisations and their online publications, and there are questions about where the various jurisdictions apply. Before those organisations get too indignant, it is interesting to note that the worst offender following the Christchurch tragedy was *Mail Online*, which continued to carry a video of the tragedy, and the manifesto behind it, long after Facebook had taken them down.

The White Paper paints a very broad canvas and, as I have cited, critics call for more action and greater safeguards. I just wonder whether draft legislation would not benefit from pre-legislative scrutiny along the lines of the Puttnam committee, which examined the Communications Bill in 2002 and on which I served. I am delighted to see the noble Lord, Lord Puttnam, in his place. That committee held hearings in public and on the air. As a Joint Committee, it was able to draw on strengths and experiences from both Houses.

By the end of the process, we will have a suite of powerful regulators overseeing these matters: the new super-regulator envisaged by the White Paper, the ICO, Ofcom, a better resourced and empowered Electoral Commission and a revitalised CMA. But how will they work together? Who will report to whom? Will some take responsibilities already held by other regulators? There is a lot of thinking to be done. In the Statement the noble Baroness, Lady Blackwood, spoke about a

need for coherence in the way government approaches this. I wonder how interdepartmental co-operation will be achieved. Will there be a special Cabinet committee on this? How will that coherence across Whitehall be achieved?

Parliament, too, will have to give careful thought to how best it links in with this new regulatory framework, either by creating a Standing Committee of both Houses or perhaps by creating an advisory committee akin to the Bank of England's Monetary Policy Committee, consisting of those best qualified to give advice on new developments in technology which would allow government and Parliament to future-proof as best we can, while keeping oversight of the new technologies within democratic control.

I hope this does not do too much damage to the reputation of the Secretary of State for DCMS, but I worked with him for a couple of years in the coalition Government. I have always admired his lawyerly calm. This will be much needed as we move ahead in this area. There will be great pressure on us to do something quickly. There is obviously a need to bring forward statutory regulation and there will be a need for education and training, to which some of my colleagues will refer. As well as the need to move quickly, there is also a need to get it right. Perhaps in helping to achieve that end, this House might yet prove its usefulness to my children and to the son of the right reverend Prelate the Bishop of Durham.

6.05 pm

Lord Anderson of Ipswich (CB): My Lords, it is a pleasure to follow the noble Lord, Lord McNally. We once appeared on "Question Time" together, although it was the Reading University version, rather than the BBC one.

John Perry Barlow, the libertarian and Grateful Dead lyricist who died last year, wrote in 1996 that the internet was,

"creating a world where anyone, anywhere may express his or her beliefs, no matter how singular, without fear of being coerced into silence or conformity".

To national Governments, those,

"weary giants of flesh and steel",

he directed a famous warning in his *Declaration of the Independence of Cyberspace*:

"You are not welcome among us. You have no sovereignty where we gather".

Those words still have the capacity to inspire, particularly in the start-up culture of Silicon Valley where First Amendment freedoms are sacred and trust in government is low. Having been lucky enough, as we all have, to live through the early stages of the communications revolution that is in the process of transforming our world, and having benefited incalculably from the connections it has brought me to people and sources of knowledge that I would never otherwise have encountered, I would go so far as to say, as Wordsworth controversially said of another revolution:

"Bliss was it in that dawn to be alive".

But as this White Paper repeatedly demonstrates, the scale and intensity with which communication is now possible have brought in their wake the potential for new and serious harms, harms for which counter-speech and alternative narratives are a necessary but insufficient answer. Even the imperative of free speech, central though it is, cuts both ways. Bullies, stalkers and foul-mouthed abusers inhibit the online freedoms of others, in much the same way as anti-social behaviour in the real world drives the most vulnerable from the public square. The risk that free speech will be chilled by overregulation is real and acute. However, underregulation too can inhibit freedom of speech, in particular, the freedom of the women and minority groups who, in Parliament—and, I suspect, elsewhere—attract a disproportionate amount of online abuse. It was saddening, even shocking, to read in the White Paper that 67% of women in the UK experience a feeling of apprehension when thinking about using the internet or social media.

Regulation, to my mind at least, should be a last resort. How sure are we that it is needed? After all, we have laws against the dissemination of terrorist materials, malicious communication, defamation, the incitement of racial and religious hatred and the intentional causing of harassment, alarm and distress. No doubt other such laws could and will be imagined, although never, I hope, the overbroad restrictions on so-called "extremist activity" that were contemplated in the Queen's Speeches of 2015 and 2016. However, laws of this kind were developed for a world of physical interactions and legal borders. They require perpetrators to be identified and brought to justice in our own jurisdictions. Those who are abroad, or who can effectively ensure their anonymity, cannot be reached. The delicate framework of our analogue laws is not on its own sufficient to contain the turbocharged power of internet communication, let alone to discourage online behaviour that is anti-social rather than unlawful.

What, then, of self-regulation by the internet intermediaries? It already exists, of course, and will continue to be central to any regulatory scheme, but its inadequacy is illustrated by the regular evidence sessions—most recently last week—in which Facebook, Twitter and YouTube are questioned by the Home Affairs Select Committee. They speak of their high standards, terms of service and internal guidelines. They claim credit for recruiting human moderators, for their use of AI and for suspending and deleting accounts. They in turn are criticised for their lack of transparency, for the patchy and inconsistent application of their standards and for their unwillingness to volunteer information that could be of assistance to law enforcement. This is not a satisfactory state of affairs. Partly, that is a function of the sheer size of the task, with hours of video uploaded to YouTube every second, limited numbers of human monitors and algorithms that are good at spotting nipples and rather less good at spotting irony. These problems will continue whoever sets the standards.

But the status quo also reveals a democratic deficit. We in Parliament, not unaccountable executives in California, should be approving the ground rules for those who do business in our country, and an independent regulator, accountable to Parliament, should be encouraging compliance and enforcing where necessary. That is what democratic governance of the internet needs to look like, as some of the tech companies seem

[Lord Anderson of Ipswich]
now to acknowledge. The concept of the statutory duty of care, proposed by Professor Lorna Woods and given effect in this White Paper, is one that I support, as is the principle that companies cannot realistically be required to check every piece of content before upload for lawfulness, irrespective of whether we remain subject to the e-commerce directive, which requires that to be the case.

Much of the criticism of the White Paper has centred on the use of nebulous terms such as "trolling", "extremism", "harm" and "offence". These are far too broad to be treated as blanket prohibitions with coercive consequences. Some of them could usefully be lost altogether. But in broadcasting at least the concept of harm has proved tolerable in the context of a detailed and context-specific code of practice. My experience of Ofcom, which I should say has extended to representing it at the recent Gaunt case in the English courts and in the European Court of Human Rights, is that with really good guidance even quite broad concepts are capable of being applied with ample regard for human rights. As it explained its approach to me at the time, every case is a freedom of expression case and it starts with a presumption of freedom. It remains to be seen whether the internet platforms are as susceptible to regulation as the broadcasters with which they so often nowadays share a screen. The sheer volume of material and the fact it is not generated by the platforms themselves will ensure that and will require the regulator inevitably to prioritise.

Some platforms might react by overcensoring the content that they allow to be carried—a risk that surely must be mitigated by some mechanism for independent review. Others might display the "refusal to act responsibly" ascribed to Facebook last week by the Privacy Commissioner of Canada in his statement on his Cambridge Analytica investigation—I hope that Sir Nick Clegg was listening. There will be practical difficulties, some of them unexpected, because, as the Minister said when introducing the White Paper, no one has done it before.

Liam Byrne MP has pointed out that, for all the benefits brought by the previous Industrial Revolution, it took numerous Factories Acts over the course of more than a century before its worst excesses could be curbed. This White Paper leaves many important issues for another day—market concentration, unattributable personalised advertising, lack of algorithmic transparency—but I like it more than I expected to, and I hope to participate on its journey into law.

6.13 pm

The Lord Bishop of St Albans: My Lords, this is a vast subject, and I will limit my comments to just a few areas.

I and others on these Benches welcome this White Paper, in particular the attempt to rethink the way we see this whole area. In the past we brought in individual laws to deal with particular problems. My colleague the right reverend Prelate the Bishop of Chelmsford has been arguing for some while that we need to see this as public space. We need to try to understand how we can regulate it from first principles in a way that guarantees the freedoms we want and the huge benefits that have come through the online world, which has made a huge and incalculable difference to our lives, but also protects the many people who are vulnerable. We have heard some account of just some of the problems some people have faced.

If the Government are to achieve the aim of making this country the safest place in the world to go online, we need to learn from other industries that are also seeking to be regulated. The whole question that I have been most closely associated with and have taken a particular interest in is regulating the gambling industry. It seems to me that there are a number of parallels that we need to take on board if we are to think about what might be the appropriate way of regulating.

It has been encouraging that the Gambling Commission has taken a stronger line on an industry that in the past performed abysmally in its duty of care to its customers. If companies such as Facebook, Snapchat or YouTube are to behave, the regulators will need to have significant powers and there will need to be real independence. Yet, if they look at some of the other regulators, why on earth are they going to fear? For example, just as the gambling industry's gross gaming yield continues to grow far into the billions, Facebook's revenue is now around £55 billion per annum. The substantial fines that we were being perennially promised in the battle to combat wrongful behaviour are very modest and really do not make the companies blink for one moment. Indeed, some cynics have been arguing that some of these companies simply budget in the fines as part of their ongoing business so that they can keep going as they have in the past. Similarly, the largest fine Facebook has received from a UK watchdog is around £500,000. These companies are in a totally different league. Therefore, there is a question about not only how we regulate them but how we get them to engage with the wider debate about the sort of world we want to create.

When I speak with families who have lost loved ones to gambling-related harms, they want to know why companies rarely lose their licences. It appears that the larger high street companies have little to fear that that might be the case. Putting it very bluntly, one of the questions I want to ask is: could it be envisaged, under the proposals as they emerge, that some of these companies could actually find their licences being revoked if they are not able or willing to deliver the public goods we need them to deliver?

The White Paper, I suppose not surprisingly, gives limited details on the funding and membership of the regulator and the regulatory body. I would be very concerned if a solely industry-funded organisation might lead to a culture of mistrust, especially surrounding the urgent need to have independent research and scrutiny. The regulator and any regulatory bodies need to be completely independent of the industry. We will be kidding ourselves if we do not think that the industry is already recruiting and deploying people to lobby individual Members of both Houses. I am sure that is already going on.

But all this is irrelevant if the regulators themselves are ignored. Again going back to gambling, the issue I have been closely associated with, last week I was surprised to see that the Minister for Sport and

Gambling appeared to dismiss a call for a mandatory levy, just minutes after the chair of the industry regulator had precisely called for one. Can the Government pledge to this House that any similar tough calls from the regulator will be championed, not rejected?

I have one or two other concerns that I want to touch on at this early stage of the discussion we are having, as we set out various issues to be debated. For example, the White Paper clearly highlights the use of addiction by certain sorts of products online. This is about not just gambling but gaming. The evidence has been growing very consistently that many things online can be hugely addictive; indeed, they are designed to keep you online for long periods. Many people will be aware that one of the issues is that a large proportion of company profits stem from the small problem group of people who are addicted to gambling, gaming or whatever it is. Indeed, they rather rely on it for their profits. Yet we do not seem to have much in this White Paper about how to deal with these products, which are designed to be addictive. This is something that was picked up by the noble Baroness, Lady Kidron, in her report *Disrupted Childhood*.

What are we going to do to address these things taking hold of people's time and energy, and in some cases becoming quite obsessive? For example, will future legislation require gaming companies to have a "pause" function, allowing people to stop and take a breath? What about the mechanism to regulate "dark nudges", which I have been reading about? People with potential addictions find that, at just the moment they try to come off, some extra new thing is offered to them in an uncanny way that seems to have been designed to do so. These are particularly problematic when you talk to people who are recovering or are addicts. How are we going to address these issues? With so many online companies using addictive products, it would be good for many users if an as yet unnamed future regulator ensured we had some research on how to deal with this sort of issue.

I dread to think of the Minister thinking that a regulator is going to be a silver bullet. This is a much bigger societal issue that we have to go on debating. I am concerned that, while the White Paper portrays the experience of the gambling sector as a land illuminated by sunlit uplands, all due to an industry regulator, that is not how it appears to many of the addicts or their families who have lost loved ones. Vulnerable people and children using the internet deserve the right level of regulation. That will involve some self-regulation, though I have to say that in my experience, talking with people, self-regulation is not working very well in other industries. Just last week, Snapchat was revealed to have extraordinarily weak standards of age verification.

Lord Framlingham (Con): I have been listening very carefully and have followed the debate from the beginning. Would the right reverend Prelate accept that, given that there is a greater urgency about this matter than just dealing with the White Paper—although that is extremely welcome and constructive—and given that even as we speak, primary school children are accessing hardcore porn, sadly it is now time for rather draconian measures?

The Lord Bishop of St Albans: I thank the noble Lord for his question. It was precisely my point, about a regulator having very significant powers. My question about whether self-regulation will work touches on a number of areas. That was why I was saying that I do not think self-regulation will work. Although it is something that we need to encourage, it does not yet have a track record that we can have much confidence in.

If I may finish—the noble Lord caught me at the very end of what I wanted to say—that is why I do not think that a light-touch approach is going to be the answer. We need to work away at how to balance these various needs, both for the freedoms and for the protection of the vulnerable.

6.23 pm

Lord Kirkhope of Harrogate (Con): My Lords, I am very happy to follow the right reverend Prelate, and I agree with much of what he says. I do not quite agree with him on everything, but I will come to that in a moment.

Generally I welcome this White Paper. During my time as a Member of the European Parliament, I became what is loosely termed as an Internet Watch Foundation champion. I do not think I have ever been a champion of anything, but I was very happy to support the Internet Watch Foundation, which has done enormously good work for many years detecting and trying to deal with instances of abuse on the internet. In fact, quite a long time ago, in 2011, I was the European Parliament negotiator when it was decided that child pornography and material facilitating child abuse should be removed from the internet whenever possible, and blocked when removal was not possible. Of course, at that time, there were not really the levers or tools in place to help deal with these matters. The IWF continues to do good work, and I hope it continues to be part of what it has always regarded as a partnership approach, in the new regulatory framework.

I disagree a little with the right reverend Prelate, and, it seems, with some colleagues, on this question of self-regulation. We should also be aware that in hosting websites, there has been much greater success in this country than in others in removing content. That has, until now, inevitably been part of a self-regulatory approach. I welcome the setting up of a regulator, although my experience of other regulators is a little mixed. Regulators have to have clear powers and be able to enforce the regulations that they are responsible for. I certainly welcome the suggestion of codes of conduct for the industry—the service providers—but in preparing these it is vital that we have full consultation, as I know we are currently having on the White Paper, with industry and with relevant NGOs, including the Internet Watch Foundation and the law enforcement authorities.

Also, any proposals must be adaptable. I was dealing with this matter in 2011, but even before that, we were aware of the emergence of the internet, but did not fully understand how it would develop. Therefore, we need to think of this as being part of what I would describe as smart legislation—we need to ensure that we can adapt and change when the circumstances and

[Lord Kirkhope of Harrogate]
the technology change. I think a co-operative approach—a partnership basis—should remain in place, as well as having a regulator to deal with some of the worst offences or threats, because if you take away this partnership approach and this self-regulatory element, you will have great difficulties in maintaining the necessary good will, which is very important, particularly in dealing with something that is not just British, not just domestic, but is essentially very international in its implications.

The regulatory regime should be a last resort, if other means are not achieving the ends you need. There is an inherent risk in what is being proposed here, that it could lead to legalistic and obstructive action, with proscription replacing persuasion or agreement, sometimes with positive outcomes. The good intentions of a regulator must not stamp on or pre-empt the good will I referred to, and the voluntary rectification, but as I have said, the UK is, in many ways, in the lead. We are not the worst country. We are not a country where these abuses are particularly noted. We have the fastest removal rates for offensive material in the world. Industry has responded to concerns, and new tools such as web-crowding technology, image classifiers, image hashing and webpage blocking are regularly deployed. That is why I think it is best to mix punitive measures fairly with maximum co-operation. Child sexual abuse imagery hosted in the UK is now at a lower level than it was 15 years ago. Of 105,000 webpages found to contain such material in 2018, only 41 of them were hosted in the United Kingdom. That is nothing to be proud of in international terms, but it shows that our hosting, and the effects of what we are trying to do with host sites, are having some results.

The National Crime Agency estimates that at least 80,000 people regularly view child sexual abuse images in the UK. However, they are viewing them mostly on sites hosted outside this country. One of the White Paper's conclusions is that the proposed regulator's powers may not, in my opinion, have a sufficiently open-door approach to those who wish to report offensive material. There is reference to the need for redress and to have a very effective redress system. However, it needs more than that. We need to make sure that the regulator is working not just in isolation but with others, as I said before.

Regarding the funding of a possible new regulator, we would obviously look first to industry to pick up the bill. That is important, but the right reverend Prelate spoke about GambleAware. Speaking as a former Gambling Minister—I may have put that wrongly; I meant as a Minister formerly responsible for gambling in this country—comparisons with GambleAware and Drinkaware are probably not terribly helpful because this is a very different case. In those cases, the drink and gambling industries come forward with proposals to suggest limitation on activity, whereas of course we are talking about elimination rather than limitation.

Finally, I would like to refer to the current provisions mentioned in the White Paper. I think one or two noble Lords have also referred to them. First, I am sure your Lordships will be delighted if I mention that there is quite a lot of EU material here. The EU e-commerce directive of 2000 was referred to a few moments ago by the noble Lord, Lord Anderson. That directive was certainly important but it did not make service providers liable for content; it made them obliged to remove illegal content but there was no obligation under article 15 to continue the monitoring of those sites in a way that I suggest we think they should be.

Secondly, the big point is that I was a shadow rapporteur on the EU general data protection regulation. Now that is important legislation, and it will have an impact here not on everything but certainly on the activities of the regulator and the areas of redress. When my noble friend the Minister winds up this debate, perhaps he could make further reference to those EU regulations and directives. How are we going to ensure that in an international setting, with the clear pressures now on us in this area, we are able to replicate them and ensure that our colleagues elsewhere in the world, where much of the abuse of the internet is coming from, will continue to comply with standards and a quality of approach equivalent to that which we have ourselves?

6.32 pm

Lord Puttnam (Lab): My Lords, I too am extremely grateful to the Chief Whip for allowing time for what is already proving to be a worthwhile and timely debate, and to the Minister for introducing it in such a positive manner. I entirely sympathise with the Government's instinct to focus on the most obvious forms of online harm, such as child sexual exploitation and abuse, the promotion of terrorism and threats of actual violence. The Government's proposals in these areas are, on balance, carefully thought through and proportionate. They represent a bold attempt to tackle some of the more damaging features of the digital age and are based on a duty of care—a principle I have long advocated in relation, for example, to what I believe to be the responsibilities of the media to ensure informed democratic debate. I hope it will not be self-promoting to mention that in 2012, I did a TED talk under the auspices of this House on this subject. It has to date been seen by almost 1 million people, so there is no doubt that there is interest in this area.

In the time available this evening, I would like to touch on other forms of harm which in my view are insufficiently addressed in the White Paper. The harms I refer to were identified by the noble Baroness, Lady O'Neill—sadly, she is not in her place—in response to the Statement on 8 April as being,

"harms to public goods, democracy, culture and the standards of the media".

She made the point that the White Paper,

"deals with only part of the problem".—[*Official Report*, 8/4/19; col. 433.]

As your Lordships have already heard from the noble Lord, Lord McNally, during her recent appearance before the DCMS Select Committee on this White Paper, Elizabeth Denham, the Information Commissioner, said—I will quote her a little more fully—that she was,

"surprised and disappointed that there was not more focus on a huge societal harm, which is electoral interference, and on the need for more transparency in political advertising".

Like others, I entirely share the commissioner's disappointment.

We are only too familiar with the pernicious and corrosive effects of online propaganda in the form of disinformation, which has already had a distorting effect on almost every area of our domestic and democratic lives. Much of that distorting effect has been caused by a worrying lack of understanding of how easily we can all be manipulated. Anyone doubting the impact of that manipulation has only to turn to the recent DCMS Select Committee report on *Disinformation and Fake News*. As that report accurately states:

"In a democracy, we need to experience a plurality of voices and, critically, to have the skills, experience and knowledge to gauge the veracity of those voices".

Many people have rightly commended the Government's White Paper for being a global trailblazer in its strategy for tackling online harms. However, I doubt whether I will be the only Member of your Lordships' House to seek a far greater level of clarity, energy and, crucially, investment in what the White Paper describes as digital literacy. In their White Paper, the Government rightly argue that the promotion of digital literacy has a wide range of benefits,

"including for the functioning of democracy by giving users a better understanding of online content and enabling them to distinguish between facts and opinions online".

This is an entirely laudable objective, but we have been here before. In fact, it was 15 years ago, in relation to the media literacy responsibilities of Ofcom, as set out in what became the Communications Act 2003, which the noble Lord, Lord McNally, has already referred to today. I am sorry to report that successive Governments, including those of my own party, never seriously grasped—let alone ensured—the delivery of Ofcom's obligations regarding what the White Paper has now accurately rechristened digital literacy. It is true that for a decade, Ofcom made efforts to address this issue but the specific grant used for that purpose was phased out by DCMS several years ago.

It will be argued that some technical research has been published, but surely that is a woefully inadequate response to the real task at hand: to equip present and future generations with the ability to assess the vast swathes of misinformation, even outright lies, which now proliferate across the internet—whether on social media, blogs or what can at first glance appear to be credible news websites. Had we seriously risen to that task, we might have avoided at least some of the deeply troubling outcomes we now face. We could have made a better job of preparing ourselves for the worst impacts of the environmental crisis that millions of young people now rightly warn us against. Even the result of the referendum might have been different if those aged between 18 and 23 had fully understood the importance of an informed vote for their own futures, and the degree to which they were capable of being marginalised and manipulated in the new digital world.

Any 10 year-old at the time of the Communications Act 2003 will now be aged 26. We are talking about literally millions of voters who, with a better understanding of the power of misinformation, could have demanded a more honest debate on the ramifications and potential outcomes of what for many of them may well have been a life-defining moment. It is estimated that 64% of young people aged 18-24, or 3.6 million out of a total of 5.7 million, turned out to vote in the referendum. Of that 64%, it is further estimated that almost three quarters—2.6 million—voted to remain. Surely it is now imperative that as legislators, we develop a laser-like focus on ensuring that people, especially the young, are equipped with the best means to ensure that never again can our democratic processes be subject to the kinds of distortions we all suffered in the months and weeks leading up to 23 June 2016. Consider this hypothesis, if your Lordships will: had all that age group voted in the same proportion as those who did engage, the result would have been a remain victory by over half a million votes. That is how important a truly informed and fully participatory democracy is to our and their futures.

The sad truth is that in a digital age, we cannot regulate misinformation out of existence. Those days, if they ever existed, have long since passed. Instead, we need to take unambiguous responsibility for putting tools in the hands of users to enable them to distinguish between fact and fiction. This is far from being a new problem but its scale has increased exponentially and its new forms are extremely challenging for any Government to combat. When he replies, will the Minister give the House some assurance that DCMS, the Home Office and the Department for Education are actively working together and prepared to invest time, effort and energy into correcting a lamentable decade of inaction?

I close by quoting from a speech made to the American Society of Newspaper Editors in 1925 by the then President of the United States, Calvin Coolidge:

"Wherever despotism abounds, the sources of public information are the first to be brought under its control … It has always been realized, sometimes instinctively, oftentimes expressly, that truth and freedom are inseparable …The public press"—

he was speaking at a time when newspapers were pretty well the only form of information—

"under an autocracy is necessarily a true agency of propaganda. Under a free government it must be the very reverse. Propaganda seeks to present a part of the facts, to distort their relations, and to force conclusions which could not be drawn from a complete and candid survey of all the facts … propaganda seeks to close the mind while education seeks to open it. This has become one of the dangers of the present day".

As this Bill moves through the House, I will be arguing that digital misinformation has become the greatest single danger to our democracy and that to pretend otherwise is to risk fatally undermining it.

6.41 pm

Lord Storey (LD): My Lords, I have listened with great interest to the speeches made so far and also read, in some detail, the online harms White Paper. This followed the Green Paper, published in October 2017, in which there was an aspiration to make the UK,

"the safest place in the world to be online".

This aspiration, which some might call a faint hope, appears again in the executive summary of the White Paper. I also listened to today's Statement on yesterday's social media summit and was interested to hear the Minister say that it was agreed,

"to work with experts … to speed up the identification and removal of suicide and self-harm content, and create greater protections online".

[LORD STOREY]
What does the Minister understand "speed up the identification" to mean? Does it mean immediately, within an hour, a day, a week or what?

Lord Ashton of Hyde: Which Minister are you talking about?

Lord Storey: I am talking about the earlier Oral Statement on the social media summit.

In the past 18 months, we have seen the internet become less safe and more dangerous, for everyone, but in particular for children and young people, who I have a particular interest in. I am not going to talk about the technical aspects of how we might regulate the internet: I am no expert on bandwidth, et cetera, and the only generation I am interested in is the one currently growing up. I have read about 3G, am using 4G and am reading about the opportunities and threats of 5G.

We must ensure that the next generation of computers, and those who profit massively from the industry, exercise a duty of care. Current and future generations of children and young people must be protected so that they can enjoy a fraction of the innocence that we enjoyed. We spent time and money on the thing called the watershed, in an attempt to prevent children watching adult content on terrestrial TV channels. We pay the staff at the British Board of Film Classification to watch every film for which general release is sought, giving each film an age rating. We have established the Video Standards Council to rate video games. Imagine the uproar there would be if the 10 o'clock news had shown the shootings in New Zealand or beheadings by ISIS. However, as the House has heard, when it comes to the internet the only regulation is self-regulation. Even Mr Zuckerberg, one of the worst villains of the internet piece, makes billions while crying crocodile tears about the need for external regulation.

When a gentleman called Mr Ford began to make motor cars, it was soon realised that they could do serious physical damage to people and property. To minimise the damage, a decision was taken to regulate cars; abolishing them was not an option. In England, we have stringent rules on who can drive, the speed at which cars are driven and how drivers must follow the Highway Code. Parents—most of them—teach their children how to cross the road safely. This is reinforced in schools and, as children begin to use roads as cyclists, they are taught how to keep themselves safe. Similarly, car makers are strictly regulated in terms of the safety of passengers and, increasingly, the damage to the environment.

However, the internet, the 21st-century Wild West, seems to have more than its fair share of bandits but no sheriffs to take them on. The internet is, as yet, totally unregulated and is driven by just two motives: making bigger profits or reducing costs. The reason why pornography, to take just one example, is so easily available on the internet is because the internet giants make unbelievably huge amounts of money, directly and indirectly, by hosting pornography sites.

Of course, everyone agrees that young people should not watch extreme violence or pornography and the industry shadow-boxes with parental filters and age limits. However, the research shows that parental filters are easily evaded and age limits are totally ineffective. A decade ago, in a Committee Room in this House, there was a seminar on the dangers posed to children by the internet. There was unanimity, even then, from the Department for Children, Schools and Families, Vodafone and Google that the internet genie was out of the bottle. Since then, successive Governments have talked the talk about protecting children and young people from the hell which is only three clicks away, but no serious attempt has been made to regulate the internet.

I support this White Paper and congratulate the Government on bringing it forward. We should present this not as an attack on freedom of expression but as allowing freedom of expression which does not damage the most vulnerable. I see this as the start of a process. We know that the industry is lobbying hard to protect its profits. We have all heard how it is difficult—which means expensive—to stop offensive and illegal content being readily available.

I pause to reflect on the points made by the noble Lord, Lord Puttnam, about the threat to our society and democracies. We have seen how that has gone on: the presidential election in America was probably affected by bots targeting literally millions upon millions of people. As political parties, we use social media to campaign and we do it in a very effective way, but in the wrong hands these means can be used to turn against democracy. I hope that the Government and the Minister will think hard, in detail, about the points that the noble Lord made.

Internet companies say, "There is nothing we can really do about this", but just look at what is happening in China. Xi Jinping manages to block anything that does not fit in with his socialist China, often with the agreement of the internet giants themselves, who go along with what he says to ensure their presence in the country. I am not suggesting that we have the same regime as China, but it is possible to put in place algorithms and filters which stop the most harmful effects of the internet. As a Liberal Democrat, I am in favour of individual freedoms, but we also have a duty to ensure that that freedom is constrained by the rights of others.

Children have the right to a childhood, and schools need to educate children to be responsible users of social media. Parents must be empowered to protect their children through digital literacy, advice and support. I hope that the Minister will look carefully at the area of support to schools. The Government will say that schools should be doing more and giving education. The problem is that we have a subject called PSHE—personal, social and health education—which many of us have said should be taught in all schools, but of course academies and free schools can choose not to do PSHE or choose not to talk to children about the problems of ensuring internet safety. Unless we regulate the internet to keep our children safe, we will continue to pay a very high price. Parents of children who have committed suicide know how high that price is.

6.50 pm

Baroness Howe of Idlicote (CB): My Lords, I am very glad to be taking part in this debate on a topic that I have raised in this House on numerous occasions.

As the number of people who use the internet and the range of things they use it for expand, we all face new challenges in balancing the good with the potentially harmful. I commend the Government and the Ministers involved in this for rising to the challenge.

The well-being of our children and young people online is at the forefront of this document and is something I have worked at and with, in different ways, over a number of years. I very much welcome the Government's reiteration of their commitment,

"to support parents in preventing and dealing with online harms".

I am particularly pleased that, since the publication of the White Paper, the Government have announced that the age verification of pornographic websites will finally come into effect on 15 July. I and other noble Lords will be monitoring the launch and the effect of this closely. I welcome, too, the intention to bring in a duty of care for social media companies. I shall follow the detail of this debate with interest as well, especially the role of the proposed new regulator, which will issue codes of practice on preventing children accessing inappropriate content, including codes on:

"Steps companies should take to ensure children are unable to access inappropriate content, including guidance on age verification, content warnings and measures to filter and block inappropriate content".

I have also been active in supporting family-friendly filtering by mobile phone operators and internet service providers and am concerned to read the report, *Collateral Damage in the War Against Online Harms*, published last week by Top10VPN and the Open Rights Group, suggesting that these filters are potentially harmful rather than advantageous. The Minister and I have had discussions about this over the years. I have never suggested that filtering is a panacea for parents; it is merely one tool in their toolbox for supporting their children as they grow up in this increasingly digital world. I look forward to hearing the Minister's response to this report.

The White Paper sets out the Government's intention for a new online media literacy strategy. I have always argued for educating the public on the options before them to manage their technology use, and especially to help equip parents to raise their children in an increasingly digital world. I welcome the inclusion within the remit of the strategy of:

"Developing media literacy approaches to tackling violence against women and girls online".

I hope the Minister, will be able to expand on the plans in this area and how they tie in with the commitment in the *Ending Violence against Women and Girls—2016 - 2020—Strategy Refresh*, that the Government are,

"working to better understand whether links exist between consumption of online pornography and harmful attitudes towards women",

and that the Government will,

"commission research in order to better understand the links between consuming pornography and attitudes to women and girls more broadly".

I would be grateful if the Minister would give us an update on how these projects are progressing and when he expects the research to be completed.

I recognise that this White Paper cannot cover all online harms and does not intend to do so. The Minister made that clear in the Statement on 8 April. However, given the focus of the paper on social media companies and child sexual abuse, I was expecting it to cover two areas which are missing. I was hoping he would have addressed some of the issues that were raised in this House and the other place about the limitations of the extent of the Digital Economy Act 2017. When we debated the regulations that will determine which websites will be required to have age verification, on December 11 last year, there was considerable comment about the current exclusion of social media websites. The Minister said that this issue might be addressed by the White Paper: sadly, it is not. It would be helpful to understand the Government's decision not to include social media within age verification when so much of the White Paper is about the responsibilities of social media, and children accessing pornography is one of the harms in the scope of the White Paper.

During the debate on the regulations, I also raised my concerns that the final version of the Digital Economy Act left a significant loophole with respect to non-photographic and animated child sex abuse images. This means that the age-verification regulator cannot ask internet service providers to block websites that contain these images. The same point was made in the other place, to which the Minister, Margot James MP, said:

"That strikes me as a grotesque loophole".—[*Official Report*, Commons, 17/12/18; col. 612.]

I am very pleased that, since the debates at the end of last year, the Internet Watch Foundation has adopted a new non-photographic images policy and URL block list, so that websites that contain these images can be blocked by IWF members. It allows for network blocking of non-photographic images to be applied to filtering solutions, and it can prevent pages containing non-photographic images being shown in online search engine results. In 2017, 3,471 reports of alleged non-photographic images of child sexual abuse were made to the IWF; the figure for 2018 was double that, at 7,091 alleged reports. The new IWF policy was introduced only in February, so it is early days to see whether this will be a success. The IWF is unable to remove content unless that content originates in the UK, which of course is rare. The IWF offers this list on a voluntary basis, not a statutory basis as would occur under the Digital Economy Act. Can the Minister please keep the House informed about the success of the new policy and, if necessary, address the loopholes in the legislative proposal arising from this White Paper?

We are debating a document that is clearly a step in the right direction, and I am sure that all noble Lords certainly congratulate the Government on that. I also very much look forward to hearing the Minister address some of the many points raised by other Members, both before I spoke and following me.

7 pm

Lord Knight of Weymouth (Lab): My Lords, it is a pleasure to follow the noble Baroness, Lady Howe, and to precede the noble Baroness, Lady Benjamin, both of whom have consistently campaigned on the dangers of the internet to children. I agree with what the right reverend Prelate the Bishop of St Albans said on gambling; I would support a ban on advertising at football matches.

[Lord Knight of Weymouth]

By way of reminding your Lordships of my interests, particularly as a chief officer at TES, a digital education business, and as chair of xRapid, a health tech business, I will start by reminding the House of the upside of the online world. TES has 11.5 million registered users, and, as a platform for teachers, facilitates the global sharing of teaching resources. This saves teachers buckets of time and helps them access a torrent of quality user-generated content. It is inconceivable without the internet. My other interest trains iPhones to do the work of microscopists in diagnosing malaria, which we are now able to give away to those who need it—laboratory quality at zero marginal cost, thanks to online technology. There are many other examples of technology for good, and if we do not grasp them but instead allow our public services to stagnate, we will be left behind as other nations leapfrog our development.

However, the harm of the internet is also a reality. Many of us are working out how to manage it. I am guilty of normally overindulging on my screen time—I am digitally obese. At home, our seven year-old, Coco, asked us just this week whether we can agree as a family our own code for gaining consent if we want to post images of each other on social media. That is a job for this weekend. But there are areas where self-regulation will not apply and where we need urgent government and legislative action.

I urge your Lordships to take 15 minutes to watch Carole Cadwalladr's brave TED talk, delivered earlier this month in Vancouver. As the journalist who uncovered the Cambridge Analytica scandal, she has credibility in her charge that our democracy has been broken by Facebook. Her argument is compelling. Communities such as Ebbw Vale, with very few immigrants, voted overwhelmingly for Brexit because of their fear of immigration. Such communities are not consumers of the mainstream, right-wing media that stir that particular pot, but they are consumers of Facebook. She describes Facebook as a "crime scene", where the likes of Nigel Farage were able to oversee what she uncovered. Who knows how much money from who knows where was able to fund of a firehose of lies through Facebook ads. These were targeted at those who were most vulnerable to believing them, using the illegal hack of personal data from tens of millions of users.

The online harm to individuals, as other noble Lords have talked about, is profound, but there can be no greater harm to a nation state than the catastrophe of Brexit, brought about by referendum won by illegal campaigning—and we allow Nigel Farage to start another party to dupe the nation once more. We desperately need to update our electoral law to prevent this destruction of our democracy, and I hope that the legislation following this White Paper may present some opportunities for us to do so.

I must also say that I commend this White Paper. I inevitably want it to go further, but the core proposals of a duty of care and of a regulator are sound. As the manager of a TES resources platform, I welcome those regulatory burdens. I am particularly delighted to see the duty of care principle. For some time I have been keen to see this well-established legal principle from the physical world come into the virtual world. I was introduced to the notion by Will Perrin and I pay tribute to him and his collaborators at the Carnegie Trust, and to the Government for listening to them. My assumption has been that, when applied, this will generate civil action in the courts by victims against technology operators for the damage caused by their algorithms and other relevant actions. Can the Minister say whether this will be available under the government plans, or will redress be available only through the regulator?

Speaking of victims of algorithms, I am also interested in whether the measures here will apply to the Government themselves and other public bodies. Can the Minister please help me? I have spoken before about the worrying case of the sentencing algorithm used in Wisconsin courts that defence attorneys were prevented from examining. We have had another example closer to home. Last year it came to light that our Home Office had deported potentially thousands of students, using a contractor analysing voice recordings with a machine. They asked the Educational Testing Service to analyse voice files to work out if students were using proxies to sit the English tests for them, and an immigration appeal tribunal in 2016 heard that when ETS's voice analysis was checked with a human follow-up, the computer had been correct in only 80% of cases—meaning that some 7,000 students had their visas revoked in error.

Given what we know about algorithmic bias, and the growing use of algorithms for public service delivery, it is critical that public bodies are also subject to the measures set out in the White Paper. I would also say that, since the Government are increasingly building technology platforms to compete with the private sector, it would be unfair not to impose the same regulatory burdens upon them as there are on those of us working in the commercial world.

My final point relates to the valid point made in the document that technology can be part of the solution. I agree. But there is a danger that the demands placed on technology companies will assume that they are all of the size and wealth of Facebook, Amazon, Google and Apple. This would be a mistake. They can afford to develop solutions and gain a competitive advantage over smaller businesses as a result. We need to ensure that these measures result in a more, not less, competitive landscape. If there are technology solutions to solve difficult problems such as the copyright infringements that I grapple with or other thefts of intellectual property, those tools should be openly available to platform providers of all sizes.

When Sir Tim Berners-Lee invented the web he had a great vision that it should be for everyone. Earlier this month he said that the internet,

"seemed like a good idea at the time",

that the world was certainly better for it, but that,

"in the last few years, a different mindset has emerged".

At the 30-year point, people have become worried about their personal data, but they,

"didn't think about it very much until Cambridge Analytica".

The privacy risk, however, "is subtle", he argued:

> "It's realising that all this user generated data is being used to build profiles of me and everyone like me—for targeted ads and more importantly, voting manipulation. It's not about the privacy of photographs, but where my data is abused".

We need new duties on technology companies and we need a regulator with teeth. I wish the Government well and I hope that we will see legislation on this very soon.

7.08 pm

Baroness Benjamin (LD): My Lords, it is an honour to follow the noble Lord, Lord Knight, and I too congratulate the Government on bringing forward this important online harms White Paper.

I have been speaking out about finding ways to protect the vulnerable and impressionable online for almost two decades now. When I was on the Ofcom Content Board 16 years ago, I continually raised my concerns and pleaded for online regulation. But at the time such ideas were considered by many to be an assault on freedom of expression, and it was thought that the internet was an open space where regulation had no place. How things have changed. Today, through this White Paper, we are now about to change the world and bring morality, integrity and trust to the forefront of the online world for the betterment of humanity.

There is no doubt that the internet is a place not only where the best of human spirit blossoms but where the worst and most sordid elements of the human condition can be expressed, shared and amplified on a global scale. Without doubt, the internet and the digital revolution are changing the world. The Pandora's box of limitless access to information has been opened and the progress of technology seems unstoppable.

But not all progress take us forward. Emerging evidence shows that children are being exposed to a vast range of online harms: pornography, inappropriate content, online gambling, body shaming, suicide, bullying, eating disorders, online grooming. The list goes on and on. It is not just children who are targeted, but adults, too—especially vulnerable groups and those in public life. They are having to deal with fake news and extreme political, racial and religious ideology, as well as hate crime, fraud and blackmail. The impacts can be life-changing: they can have serious psychological and emotional effects on those who have to endure relentless abuse, which is taking its toll on society's well-being.

I have dedicated my life to the well-being of children, and it is children who are predominantly at risk from online harms. It is accepted that the internet offers children a range of wonderful opportunities to have fun, create, learn, explore and socialise. But tech firms are failing our children, and it seems that they will not take action until they are forced to. They must establish a duty of care for their customers, who want to be empowered to keep themselves and their children as safe online as they are offline. Currently, insufficient support is in place, so many feel vulnerable online.

Last week, I hosted the launch of the Internet Watch Foundation's annual report. I declare an interest as one of its champions. For the past 23 years, the IWF has taken on what you might call "the toughest job in the world": removing thousands of child sexual abuse images from the web. Worryingly, it has told me that the extreme content is getting worse and worse. I wept when I heard harrowing stories of how children, including newborn babies, are being sexually abused and then re-victimised by having their image shared across the world online, again and again.

The IWF welcomes the online harms White Paper and its focus on making the UK the safest place in the world online. The paper fits with the IWF's charitable objectives and vision of an internet free from child sexual abuse. It calls on the Government to recognise the efficiency and success of its work and to ensure the security of the IWF's partnership approach in the new regulatory framework proposed in the White Paper. But it is concerned that its partnership model could be swept away accidentally and its ability to remove images of child sexual abuse hindered.

When the IWF was founded in 1996, the internet was a vastly different environment. The tech giants of today, including Google, Facebook and Amazon, did not exist. More and more people are now using the internet. The Government, courts and legislative processes are no longer able to keep pace with that change or predict where the future will take us. Therefore, the IWF is calling on the Government to ensure that any legislative proposals and definitions are nimble enough to be adaptable in future, with as wide an application as possible to keep up with the rate of change and innovation in the tech sector. We know that the size, nature and processes of companies within the internet industry are wide and varied, so the Government must work in tandem with the industry to develop a code of practice to effectively address regulation of the internet in a realistic and enforceable manner and recognise that one size does not fit all.

I sit on the House of Lords Communications Committee, and in our latest report, *The Internet: to Regulate or Not to Regulate?*, we recommended that a new body, which we call the digital authority, should be established to co-ordinate regulators in the digital world and that this body should continually access regulation in the digital world and make recommendations on where additional powers are necessary. We should also establish an internal centre of expertise on digital trends which will help to scan the horizon for emerging risks and gaps in regulation, to help regulators to implement the law effectively and in the public interest. We foresee the digital authority co-ordinating regulators across different sectors and multiple government departments, so we recommend that it should report to the Cabinet Office and be overseen at the highest level.

I always say that childhood lasts a lifetime. As my noble friend Lord Storey said, schools need to educate children about how to use social media responsibly and be safe online, as supported by the PSHE Association. Parents must be empowered to protect their children through digital literacy advice and support because, for most children today, their childhood is being brutally snatched away from them.

This is a pivotal moment, and the rest of the world is watching to see what measures are put in place to regulate the internet. But we must be wise and learn from experience. For example, if the Digital Economy Act were in front of us today, there is no doubt that social media would not be excluded. It is a glaring omission. Will the Minister confirm that the Government will address the exclusion of social media from age

[Baroness Benjamin]

verification for commercial pornography at the earliest opportunity? The BBFC should have the power to ensure that an AV wall is in front of all commercial pornography. It makes no sense not to include social media. I believe that the speed of change in this space is such that we will move to a situation where AV is routinely used for a range of content for different ages, and that this is a good thing.

I welcome the recognition in the White Paper of the BBFC's age ratings online. However, it is vital that age ratings can be linked to parental controls and filters. I also heard from the BBFC that its classification tool for crowd-rating user-generated content, You Rate It, would be perfect for YouTube where, according to Ofcom's research, many children now view content. It would mean that parents and children could report abuse. Will the Government be prepared to endorse and encourage crowd rating?

Age verification, which I and many other noble Lords across the House have fought for over many years, will finally become operational in July. The legislation and technical innovations to carry out rigorous and secure age verification will soon, I hope, be taken up by other countries across the world. I believe that this will be the same for the measures proposed in the online harms White Paper.

It is wonderful that the DCMS and the Home Office are working together on this important issue, as we need a holistic approach in which other departments, such as Health, Education and the Treasury, are involved. We all have our part to play if we are to counteract the onslaught of online harm.

I urge the Government to concentrate on bringing in a new regulatory framework that can genuinely make the internet a safer place as soon as possible, because every day we hear more horrific stories of online harm. I look forward to working with the Government to progress this important White Paper. Once again, I congratulate them on producing it, because it shows that we intend to be the leading force in the world when it comes to online protection and safety. My Lords, there ain't no stopping us now!

7.19 pm

Baroness Hollins (CB): My Lords, most of the focus in the media and in Parliament about online harms has rightly been on children and young people. However, I suggest that government, social media companies and the new regulator also think about people with learning disabilities and other vulnerable adults. I remind noble Lords that Article 9 of the UNCRPD requires states to enable disabled people to participate fully and to have access on an equal basis; for example, to information and communication technologies.

According to research published by Ofcom this year, about 70% of the 1.5 million people with learning disabilities in the United Kingdom have a smartphone and a laptop or computer. While this is significantly lower than the proportion of the general population, it still indicates that a majority are active online. For those who go online, there will be clear benefits.

Having a learning disability often means that people have fewer friends and fewer opportunities to socialise than the general population. Social media could be an effective way to connect with others and to build friendships and relationships with like-minded people. However, many have not enjoyed these good outcomes but instead have had distressing experiences.

Many have been financially exploited by people who prey on the fact they have an intellectual disability and are less able to spot a scam. Scammers might pose as a business offering a product or service, as a health professional or as an individual offering friendship or a romantic relationship. This type of "befriending" is often referred to as "mate crime" in the disability sector—there is a tragic history of this occurring both online and offline—and is intended to exploit them financially, physically and sexually. This type of online grooming might begin with the inappropriate sharing of images. Some people with a learning disability, particularly those with limited support, find it difficult to recognise that it is inappropriate and dangerous; nor do they know where to seek help.

Such negative experiences may lead people simply to retreat from social media platforms. As part of the online harms White Paper consultation, I suggest that government need to engage directly with people with learning disabilities as well as with the organisations that represent them, such as the Royal Mencap Society, Dimensions and the Foundation for People with Learning Disabilities.

The 2018 digital charter had several principles, one of which was that people should understand the rules that apply to them when they are online. This raises questions about whether some people with learning disabilities do not have the mental capacity to use the internet safely and what measures social media providers may need to take to make the internet safe and inclusive.

In a recent judgment in February, the honourable Mr Justice Cobb in the case Re A (Capacity: Social Media and Internet Use: Best Interests) commented:

> "Online abuse of disabled people has become, and is, an issue of considerable and increasing national and international concern".

He concluded that A, a man with learning disability, must be able to understand that information and images he shared on the internet might be shared more widely, including with people he did not know; that privacy settings might enable him to limit what is shared; that other people might be upset or offended by offensive material that he had shared; that some people he met online might not be who they said they were; and that someone who called themselves a "friend" on social media might not be friendly. He also suggested that some people whom he did not otherwise know might pose a risk to him.

It was a very thoughtful judgment, which concluded that A did not have capacity to use the internet safely. Mr Justice Cobb also made the point:

> "The use of the internet and the use of social media are inextricably linked; the internet is the communication platform on which social media operates … It would, in my judgment, be impractical and unnecessary to assess capacity separately in relation to using the internet for social communications as to using it for entertainment, education, relaxation, and/or for gathering information".

I would add that access to the internet is also needed for, for example, telecare, which is important for many disabled people.

I, too, welcome the proposed "duty of care" for social media companies. This must include reference to vulnerable adults, including those with learning disabilities. Social media companies have powerful algorithms working to clamp down on copyright and other infringements and it makes sense that these should also protect people from abuse, scams and grooming.

The consultation states:

"The regulator will also have broader responsibilities to promote education and awareness-raising about online safety".

I strongly suggest that central to this is ensuring that people with learning disabilities are also provided with the skills, tools and knowledge to keep themselves safe online as well as to know where to go to report incidents and get the right guidance and support. Only with this education will people be able to understand online safety and be included in this new technology.

I look to the Minister for an assurance that, in creating this new framework, government will include the needs of vulnerable adults in its scope so that social media companies and others will work together to protect people with learning disabilities from abuse, scams and grooming.

7.25 pm

Lord Haskel (Lab): As my noble friend Lord Knight mentioned, earlier this year we celebrated 30 years of the internet and the BBC made a series of programmes about its development. One was about how content that spreads knowledge and information has been used to undermine many of the values of our society, so doing the harm that we are debating. This meant that the internet platforms had seriously to think about monitoring content. They could not rely on people reporting harmful content because many had sought out the material on purpose.

We were then shown how the monitoring takes place. There are algorithms looking for harmful phrases, words or images, but apparently these can be easily fooled. Therefore, a major part is human monitoring, and we saw how one of the major platforms does this. It employs hundreds of people in Malaysia and the Philippines to scan posts for things such as decency, child abuse and threats—things that are already illegal on the internet. It was interesting to see the monitors at work. Decisions are instantaneous. Where perhaps the Minister or I would want to give a matter more consideration, there is no time, because monitors have to fulfil their quotas or their pay is docked.

This is the practicality of monitoring the internet. When the duty of care required by the White Paper becomes law, companies and regulators will have to do a lot more of it. The paper suggests that the regulator will be funded by a levy on the companies—they will need it. The Minister assured us that regulations will be reasonable and proportionate. Yes, there will be a code of conduct. I think that the internet companies will welcome this, because it firmly puts the responsibility on government to decide what is and is not acceptable, and where lines should be drawn. The lines may be drawn in different places in different countries, but I agree that we have to make a start.

I agree with the noble Lord, Lord Anderson, and hope that the Government will make an important part of this code of conduct requiring internet platforms to provide information voluntarily to help the authorities find the authors of harmful material. Their identity is often covered by many layers of encryption or by using off-grid servers. Indeed, I presume these regulations will apply only to the open internet. Do the Government also hope to regulate the dark web and private servers?

Of course, there are other ways to achieve the same objective. Like the noble Lord, Lord Kirkhope, I ask the Minister whether we will keep the GDPR rules of the EU. These seem to rely on swingeing fines acting, we hope, as a deterrent, but the size and resources of the European Union are presumably needed to collect such fines from companies 5,000 miles away; however, I am sure they act as a deterrent.

The alternative is to deal with this through some good, old-fashioned anti-monopoly legislation, making sure that customers and users are not being exploited. As we are all locked into using these platforms, are we being exploited by lack of choice, lack of transparency or lack of content? I put it to the Minister that there is a case for this. He will be aware of the growing unease about the concentration of power and control over the internet in a few companies; we all know who they are. Much of this power and control lies in the fact that the same company that provides the platform also provides the content and the goods. Doing both enables a company to dominate trading online, causing harm to many small and medium-sized companies that trade on or off the internet. This is harmful to society too, as explained by my noble friend Lord Griffiths and the noble Lord, Lord McNally, because it causes economic harm.

So, there is a case for commercial harm. Internet platforms recognise this and have recently produced data ethics guides or appointed prestigious advisory councils to look at not only harm but the impact of artificial intelligence. Part of their task also seems to be helping to argue that breaking up the dominant companies will be bad for innovation and progress. I suspect that reducing the harm of these companies by treating them as monopolies is some way off but, in the end, it may become the only effective way of dealing with the harm that concerns us, making the internet a safer place without having to create trusted institutions to handle the data. The promised media literacy strategy can play an important role. Like my noble friend Lord Puttnam, I think it should be high on the agenda to assist us in helping ourselves and our families.

The Government are right to act. As I said, it will require a lot of people and money, but let us not forget old-fashioned monopoly legislation because it may come down to that. The Minister spoke about international co-operation. What steps will the Government take to get others to work with us? I agree that we cannot isolate ourselves from the rest of the online world.

7.33 pm

Viscount Colville of Culross (CB): I declare an interest as a series producer at Raw TV making content for CNN. I support many of the suggestions in the

[Viscount Colville of Culross]

White Paper, particularly the need to give a duty of care to tech companies to prevent the harms that appear on their platforms. The Communications Committee's recent report on regulating the internet stated:

> "Given the urgency of the need to address online harms, we believe that in the first instance the remit of Ofcom should be expanded to include responsibility for enforcing the duty of care. Ofcom has experience of surveying digital literacy and … experience in assessing inappropriate content",

and balancing it against free speech. The new regulator recommended in the White Paper is an exciting idea I fully support, but it will take some time to create and action needs to be taken now.

I was reassured by the Minister's assurances on free speech at the beginning of the debate but I would still like to draw his attention to the wide range of organisations covered by the regulator under the White Paper. Paragraph 4.2 looks at types of online activity, including "hosting", "sharing" and "discovery of user-generated content". My concern is that this definition is so widely drawn that it will cover much user-generated content on the websites of broadcasters and newspapers. As the Minister pointed out, these are already regulated by Ofcom, IMPRESS or IPSO. Some of the UGC is also regulated on these publishers' websites, particularly those that have gone through a process of editorial control. However, a lot of the other comments and UGC on these websites is not covered and is not being looked at under the regime suggested by the White Paper. I suggest that it should be dealt with by extending the remit of the existing regulators, rather than being duplicated by a new regulator.

I am also concerned by some of the definitions of online harms set out in table one in paragraph 2.2—the noble Lord, Lord Griffiths, talked about them—particularly those under the column entitled "harms with a less clear definition". I am worried that unless their definition is carefully focused, they will have a chilling effect on free speech by leaving media companies vulnerable to allegations of breaching their duty of care. One such harm is "disinformation", which we are all against when it covers the dissemination of lies. I fear that, despite the Government's laudable intention, a wide definition would allow interest groups and individuals being investigated by reporters to disrupt research and undermine the credibility of news organisations with allegations of fake news. For example, we have seen super-complaints against media outlets reporting on the pharmaceutical industry and exposing the side-effects or addictive qualities of certain drugs. The threat of a digital regulator questioning the original journalism and comments from users, who report the side-effects of these drugs, could stop these investigations taking place.

Another term that worries me is "violent content", which also comes under the column entitled "less clear definition". This definition must also be drawn very carefully so that it does not censor reports on demonstrations or terrorism. Even if these reports have been carefully edited, there could still be complaints of incitement to or encouragement of violence. For instance, reporting from the Catalan independence referendum showed many shots of the police violently tackling voters to prevent the banned vote going ahead. In this case, a wide definition of "violent content" could be interpreted to cover these images of extreme police action because they incite violence; they might therefore be taken down. I ask the Minister to draw these definitions carefully so as not to chill free speech. It would be ironic if the legislation coming from this White Paper managed to quash valid and important free speech when it should be stopping a much greater harm.

A completely different area of the White Paper, mentioned by the right reverend Prelate the Bishop of St Albans, worries me: the Government's approach to internet addiction. Paragraph 1.19 of the White Paper states:

> "The UK Chief Medical Officers (UK CMOs) commissioned … a systematic evidence review on the impact of social media use on children and young people's mental health. The review covered … online gaming … and problematic internet use, which is also known as 'internet addiction'".

However, paragraph 1.20 states:

> "Overall the research did not present evidence of a causal relationship between screen-based activities and mental health problems, but it did find some associations between screen-based activities and … increased risk of anxiety or depression".

The White Paper concludes that the evidence does not support the need for,

> "detailed guidelines for parents or requirements on companies".

Box 15 suggests that,

> "the regulator will continue to support research in this area … and, if necessary, set clear expectations for companies to prevent harm to their users".

I suggest that the White Paper is kicking the can down the road. Millions of parents in this country will have stories of trying to limit their children's screen time and the dreadful battles that ensue. Your Lordships only have to read a widely praised book by Shoshana Zuboff, *Surveillance Capitalism*, to understand that addictiveness is built into many platforms, especially social media sites such as Facebook.

Chapter 8 does look at regulators working with tech companies to enforce safe design in the digital world, but I suggest that the Government should specifically ask the regulators to look at internet addiction more thoroughly and, if necessary, force tech companies to change their algorithms and coding so that this addictiveness is reduced. Obviously, tech companies want to encourage users to spend as much time on their platforms as possible, so it is only through direct intervention by the regulator that anything will be done to combat internet addiction.

There is one area of internet addiction that I am particularly concerned about: internet gaming disorder, a condition which at the moment affects many young people, especially young men. There is great concern among addiction specialists about this problem. It has been difficult comprehensively to diagnose the condition because so many different measures have been used, but next month the World Health Organization assembly will be discussing whether gaming disorder should be included in the International Classification of Diseases. Once that happens, doctors and psychologists are convinced that the terrible extent of this problem will become only too clear.

The Minister has only to talk to players of the game "Fortnite" to understand how very clever the company designers have been in making it addictive. Even when the player stops the game it carries on, and when they join there are endless incentives to keep playing. There have been many cases of young people being severely sleep deprived, refusing to leave their rooms and, in some cases, even becoming suicidal. Policymakers in China and South Korea, where this has been a particular problem, recognise that internet game disorder needs to be dealt with. They have started to combat it by working with parents and by engaging with the gaming companies to build in design that limits the amount of time played and, in some cases, cuts off play after a certain period. The White Paper needs to bring together stakeholders and the gaming industry to draw up new regulations right now to mitigate the problem of gaming addiction, along the lines of what is going on in the Far East. I ask the Minister to ensure that any further legislation takes this problem into account. Millions of parents across the country will be grateful and, in the long term, so will their children.

7.41 pm

Lord Brooke of Alverthorpe (Lab): My Lords, I rarely speak on DCMS issues. I talk about them when they have been taken away from that department and pushed down the line to the Home Office or the health department. I am thinking here of how the licensing legislation for drinking started in DCMS. It ended up with the Home Office and effectively the major interest in the issue now is with health. It is the same with gambling, where again we started with DCMS. I forecast that this major document and the legislation that is to follow it will not stay primarily with DCMS but will go to the Home Office, where the security issues have to be dealt with, but much of it will end up with the health department. Here I am pleased to be following the noble Viscount, Lord Colville, because the areas he has touched on are those in which I have a particular interest. I have gone from drink, drugs, sugar, diabetes and obesity to what people are doing about obesity in children and the failure of parents to watch what their children are doing, including the time that they are spending on the internet, particularly on gaming, and the effect that this is having on family life and so on.

I picked up on the issue of opioids on page 16, while on page 20 mention is made of the report of the UK Chief Medical Officers which looks at the problems that will arise in the future. At the moment the prospective Bill will not look at them. A real challenge is the emergence of the problem of excessive screen time. Children are spending an average of 15 hours a week playing games. Pages 26 and 27 deal with addiction, which was picked up on by the noble Viscount. I am worried that we do not have enough about health in this document. If it is not in there now, it will most definitely come along further down the line.

I welcome the White Paper overall because it pulls together many areas where we have had concerns for quite some time. I welcome the statutory duty of care, but it is a pity that that has been taken from the health and safety regulation. Health has thus been denied its inclusion, and I suggest to the Minister that when we come to rewrite the title we do not just talk about online harms but add a colon and the word "safety" and a tag behind it saying "health". I think that health will have to be looked at in that context. A new title would be better because we should try to make it look a bit more positive than it does at the moment.

We also have to look for ways in which we can engage better not with the smaller companies in the industry but with the big ones. We should differentiate between the big international monopolistic players and the smaller companies that are trying to make their way and grow. It should not quite be a blunderbuss right across the board; we should split these companies into two categories. We are dealing here with people who have big money and great power.

Referring to the appearance of the noble Baroness, Lady Blackwood, before us earlier, we can see that the Department of Health and Social Care has seized the initiative on organising meetings. The Government will need to have someone who is clearly in charge. I am not sure from which department they will come, but someone has got to be ultimately responsible for dealing with the major companies on an international basis as well as domestically within the UK.

It is good to see that we have the statutory duty of care and that we will use technology as part of the solution. It is good too that the funding for this will, it is hoped, come from the industry. I suggest that we need much more funding than just to cover the regulator. We ought to have a look at what happened when the National Lottery was introduced. By and large it has not been criticised as much as gambling in general over recent years. The National Lottery is acceptable because some of the money raised by the lottery goes back into society. We need to engage with the major players not just about harms but about how we can move them towards taking a positive approach. Perhaps we should be looking at them not just to pay for regulation but to create something like the kinds of additional funds that from the 1990s onwards have been generated and then spent on, for example, heritage projects. That money from the major players should be used to pay for research and to encourage them to explore those areas where technology can be used positively as well as negatively.

My interest in this issue is based on friends with children who are totally addicted to gaming. The problem is quite widespread and is growing, and it needs to be seriously addressed. If you can get children addicted to gaming, why are we not looking at whether gaming can be used as a means to attract the attention of children who perhaps have mental health problems or physical problems with obesity and so on? We should try to develop positive games that encourage them to care for themselves rather than simply persuading them to buy the next game, which is what so many of the gaming exercises are about at the moment: making money. There is an opportunity to engage with the major players and try to move them in that direction. They could still make money but they would be doing so on something that is worth while for the populace generally, and in particular for the welfare of our children in the future.

[Lord Brooke of Alverthorpe]

I am working with a group of people in a television company to try to do this. We have identified many of the games currently being played which are good, but they are in the minority. I have tabled a Question for a couple of weeks' time asking the Government what they are doing in terms of research into gaming on the positive side rather than the negative one. I hope that the Minister, who is going to be answering that Question, is prepared to come up with some positive responses. Money needs to go into this and if the Government will not fund it, we certainly ought to be going to the private sector, perhaps in conjunction or in partnership with the Government. We could then develop a positive approach to the good elements of technology rather than spending all our time talking about the negative ones.

I am unhappy about the absence of the health elements, which I believe will come in due course, without question, as night follows day. We should be preparing for that, and perhaps the Minister might reflect on whether a little more should be included on the problems coming on the health side. They would then already be there and, even if not addressed in the Bill that comes, would at least have been laid down to be reviewed and worked on in the future.

I hope the Minister might look also at the possibility that more money is taken on a persuasive basis from the big players, so that we do not just cover the cost of the regulator but start to invest in research in those areas where games, for example, could be used positively for the benefit of children, rather than negatively.

7.50 pm

Baroness Grender (LD): My Lords, it is excellent to follow the noble Lord, Lord Brooke, because I have worked with him on areas of addiction. I know of his campaigning in this area, and I admire and follow with interest his constant insistence on connecting it to health. I also thank the Minister for providing us with this debate. As the noble Lord, Lord Griffiths, rightly described it, it has been a good opportunity to have a fascinating conversation.

Every noble Lord has said that the White Paper is very welcome. To date, the internet, and social media in particular, have opened up huge freedoms for individuals. But this has come with too high a societal price tag, particularly for children and the vulnerable, as described by the noble Baroness, Lady Hollins. There is too much illegal content and activity on social media, including abuse, hate crimes and fraud, which has mostly gone unpoliced. As my noble friends Lord McNally, Lady Benjamin and Lord Storey said, we on these Benches therefore support the placing of a statutory duty of care on social media companies, with independent regulation to enforce its delivery. My noble friend Lady Benjamin was quite right to say that she was seated at this table a long time before many of us. The independent regulator could be something like the Office for Internet Safety, or, as described by the Communications Committee, the digital authority.

The evidence has been clear from the DCMS Select Committee, the Lords Select Committee on Communications, Doteveryone, 5Rights and the Carnegie Trust: they have all identified the regulatory gap that currently exists. A statutory duty of care would protect the safety of the user and, at the same time, respect the right to free speech, allowing for a flexible but secure environment for users. We agree that the new arrangements should apply to any sites that, in the words of the White Paper,

"allow users to share or discover user-generated content or interact with each other online".

The flow between regulated or self-regulated providers of information and providers of platforms of unfiltered content is not something that your average teenage user of "Insta", as they call Instagram, can distinguish—by the way, it is never Twitter they use; that is for "old people". These Insta-teens do not distinguish between a regulated, substantiated information provider and inaccurate and harmful content or links. The noble Lord, Lord Puttnam, talked about digital literacy, which is absolutely essential. One of the greatest gifts we can give a new generation of children is the ability to question the content that is coming to them. Proper enforcement of existing laws, as mentioned by the noble Lord, Lord Anderson, is vital to protect users from harm. But the useful addition is that social media companies should have a statutory duty.

My noble friend Lord Clement-Jones so ably chaired the Select Committee report on artificial intelligence, *Ready, Willing and Able?*; a report that some of us talked about only last week. A year later, it is still keeping us all very busy with speaking engagements, and therefore my noble friend is very sorry that he cannot be here. He is currently in Dubai at the AI Everything conference to talk about AI and ethics. When the White Paper was published, he rightly said:

"It is good that the Government recognise the dangers that exist online and the inadequacy of current protections. However, regulation and enforcement must be based on clear evidence of well-defined harm, and must respect the rights to privacy and free expression of those who use social media legally and responsibly".—[*Official Report*, 8/4/19; col. 431.]

He welcomed the Government's stated commitment to these two aspects. The essential balance required was described by my noble friend Lord McNally, the noble Lord, Lord Kirkhope, and the noble Viscount, Lord Colville.

Parliament and Government have an essential role to play in defining that duty clearly. We cannot any longer leave it to the big tech firms such as Facebook and Twitter, as we heard from the noble Lord, Lord Haskel. We have been waiting and waiting for it to be done on a voluntary basis, and it is simply not good enough. It was therefore good to hear the Statement earlier today, on yesterday's emergency summit, about self-harm and the commitment from some of the big tech firms to provide the Samaritans with support. However, the right reverend Prelate, my noble friend Lord Storey and the noble Baroness, Lady Thornton, were right about the need to follow the money and look at the level of investment versus the level of profit. I hope that the Minister will respond on that.

I want to explore in particular the use of regulators that currently exist. Our findings on these Benches, following a series of meetings with the main regulators and after hearing evidence, is that they are keen to get started on some of these areas. While I appreciate that

we are still in a period of consultation, I would like to explore this issue, because the need to deliver soon for the whole current generation is significant.

Does the Minister agree that it may well be possible for the extension of regulatory powers to Ofcom to oversee the newly created duty of care? Does he agree that Ofcom could, in principle, be given the powers and appropriate resources to become the regulator that oversees a code for harmful social media content, and the platforms which curate that content, to prevent online harms under the duty? As the noble Viscount, Lord Colville, asked, what are the possibilities for the use of current regulators? Ofcom's paper on this very issue, published last September, was very helpful in this respect. We heard from my noble friend Lord McNally about the success of the Communications Act 2003, and the scepticism beforehand about its ability to deliver. It runs in complete parallel to what is currently being debated about how it can apply to the internet—so it has been done before.

Likewise, how does the Minister view new powers for the Information Commissioner and the Electoral Commission, particularly in respect of the use of algorithms, explainability, transparency and micro-targeting? I apologise that I cannot provide more detail—I cannot seem to get on the internet here today, which is ironic—but there was a recent fascinating TED talk about the suppression of voting. It was about not just the impact on voting but trying to suppress voter turnout, which I find horrific. What are the possibilities for the ICO and the Electoral Commission to expand and take up some of these duties?

The White Paper refers to the need for global co-operation, and my noble friend Lord Clement-Jones is pursuing the possibility of the G20 in Osaka being used as a key platform for an ethical approach to AI. Is it possible that the White Paper agenda could be included in this? In particular, it is about using the recommendations on ethical principles from the AI Select Committee, and the five principles for socially good AI from the European Commission High-Level Expert Group. What are the possibilities around that, given that we are trying to push for global agreement on responsible use of the internet?

The noble Lord, Lord Knight, mentioned transparency. There must be transparency around the reasons for decisions and any enforcement action, whether by social media companies or regulators. Users must have the ability to challenge a platform's decision to ban them or remove their content. I very much welcome the fact that technology has been highlighted as something that is part of the solution.

For children, "not online" is simply not an option. Children at secondary school now have to use it to do their homework. It is no good me saying to my 13 year-old, "Get off your screen", because he just might be on "Bitesize" or doing his maths. I have to get my kids' meals paid for on this, so online is very much part of a child's life. Screen-based activity could mean that they are doing their homework—fingers crossed.

However, I completely agree with what was said about the resistance of the gaming sector, in particular, to engage with this issue, and I support the noble Viscount, Lord Colville, on this. But my noble friend Lord McNally rightly pointed out our limitations generationally. Fair warning: I think that sitting through a popular vlogger on YouTube with 2 million subscribers describing the "Endgame" version of Fortnite to us would not enlighten us as legislators. It is therefore about us getting it right.

The noble Lord, Lord Anderson, said that we have been lucky. What I fear and worry about most of all is that today's generation is not going to get the value of this White Paper, and that is particularly unlucky. Therefore, to get the balance right, as my noble friend Lord McNally rightly said, we should be considered in our approach. But I worry about the need to deliver quickly, and that is why I am asking whether there are regulators who can possibly trial some of this legislation in advance, rather than it going through pre-legislative scrutiny—because we know that some of them are ready to deliver on some of this.

I assume that when seat belts were originally discussed in a place like this, there were still some people who wanted children to bob about on the back seat in the name of freedom, without laws to protect them. Today that would be horrific and unheard of. We will probably look back and feel the same about children online. My noble friend Lord Storey is absolutely right: a child can find their way around the age issue. Give me a handful of 11 and 12 year-olds and I will show you the social media apps they are currently on. All of them are restricted to 13—but they are all on them. That is why the age verification issue must be tied in with younger people in particular, as was mentioned by the noble Baroness, Lady Howe, and my noble friend Lady Benjamin. In order to double or triple check, I ask the Minister whether it is being delivered in July. I thank him for his thumbs up; it is very well taken.

As I have said, we have a moral duty to move at quite a pace now. The White Paper is extremely welcome and I look forward to supporting its rapid progress through this House.

8.02 pm

Lord Stevenson of Balmacara (Lab): My Lords, I join others in thanking the Government for ensuring that the House has had an early opportunity to debate this White Paper. It has been long-trailed—it kept approaching and disappearing in our thoughts as the Minister came under pressure to define his timescale—but it is here, it is good and we will support it. However, it has also brought up a number of issues that have been raised today and we need to address them.

The number of speakers in the debate may be relatively low but the quality of the content has been extremely high. I have been scribbling notes all the way through, often overwriting what I was going to say as additional points came through. I will probably not be as clear as I would wish to be but that is a reflection of the quality on display today.

We also had the chance to see practical examples of the issues in play in the exchanges on the Statement that preceded this debate. Some concrete examples were quite worrisome and I hope they will be looked at carefully by DCMS, even though the Statement was from the Department for Health and Social Care.

It would be invidious to pick out particular contributions to the debate—as I have said, the standard has been high—but it would be remiss of me not to

[Lord Stevenson of Balmacara]

pay tribute to the noble Baroness, Lady Howe, for her contribution. She has been a doughty campaigner on these issues for as long as anyone can remember—she can remember a long way back; I mean no disrespect by saying that—and it must be a sweet moment for the Minister that, despite the criticisms she still has, she welcomed what has been put in front of us today.

We are not discussing a Bill and I take the Minister's point that this is a White Paper for discussion. It has some green pages to which we are encouraged to respond, and I hope we will all respond where we can. I also hope that the Minister will take on board what has been said today because it has been a useful contribution. Many people have spoken about the wording of the paper itself, which gives a sense of where we are in this debate. I shall do so as well. I have some general points that I wish to make at the end of what I have to say, but I shall start with one or two points of detail because it is important that we pick up on issues of substance.

On the statement in the White Paper on a new regulatory framework for online safety, in paragraph 21 there is an assertion that the Bill will contain powers for the Government to direct the regulator, when appointed, in relation to codes of practice on terrorist activity or child sexual exploitation and abuse—CSEA—and that these codes must be signed off by the Home Secretary. This is an issue in which Parliament needs to be involved and I hope the Minister will reflect on that and find a way in which we can get further engagement. I do not think it appropriate for the Executive simply to commission codes, have the Home Secretary sign them off and implement them without Parliament having a much greater role.

Paragraph 22 refers to the need to make sure that the codes of practice relate to currently illegal harms, of which there are many, including violence and the sale of illegal services and goods such as weapons. The clear expectation is that the regulator will work with law enforcement to ensure that the codes keep pace with the threat. This also is a wider issue because obscenity law is also in need of updating. We have had discussions on previous Bills about how there is discontinuity in how the Government are going about this. I hope that point will also be picked up.

A number of noble Lords raised the importance of transparency for any work that might be done in this area. The most disappointing aspect is the rather coy phrasing in the White Paper in relation to algorithms. Paragraph 23 refers only to the regulator having powers to require additional information about the impact of algorithms in selecting content for users. The bulk of the argument that has been made today is that we need to know what these algorithms are doing and what they will make happen in relation to people's data and how the information provided will be used. This issue came up in the discussion on the Statement, when it was quite clear that those who might be at risk from harms created on social media are also receiving increasingly complex and abusive approaches because of algorithms rather than general activity. This issue is important and we will need to come back to it.

Moving on to the companies in the scope of the regulatory framework, the phrasing of paragraph 29 is interesting. It states:

> "The regulatory framework should apply to companies that allow users to share or discover user-generated content or interact with each other online".

That does not cover the point that, as many others have said, a much wider set of societal and economic indicators will be affected by the work on social media. We cannot allow the opportunity to legislate here to be missed because of some constraint on looking only at user-to-user interactions. We need to consider the impact on the economy more broadly.

When the Minister responds, or perhaps in writing later, will he consider the question raised in paragraph 33, which states:

> "Reflecting the importance of privacy, any requirements to scan or monitor content for tightly defined categories of illegal content will not apply to private channels"?

We need to know more about what is meant by "private channels". There is more in the White Paper but this exclusion of private communications may be too great a risk to bear. If we are talking about WhatsApp or Facebook Messenger messages being private, we will also miss out on the problems that have been caused by harassment, bullying, aggression and other issues raised in earlier debates.

On the independent regulator, which I shall come back to later, there is a very narrow issue about the wording of paragraph 35, which says that,

> "the regulator will work closely with UK Research and Innovation (UKRI)".

Why has that body been picked? There must be many people doing research in this area and it would seem invidious that it has been selected as one of the primary partners on the evidence base. I hope there is a much broader cut through the research being done because we will need it as we move forward.

Finally on the detailed points, the enforcement of the regulatory framework is key to whether this will be a successful démarche. On all the previous occasions we have discussed this, in relation to gambling, addiction and other issues, we have come across the problem that where companies have a legal presence in the UK, there is obviously an easier route through to attaching to them. However, most companies operating in the UK are based entirely overseas, and this is true of the companies we are talking about today. It is a familiar problem. We have been through this so many times that the arguments must be so well rehearsed in the department that it has not been able to come up with anything new this time, although I regret that because we are stuck with the issue that, while it is very good to see the Government prepared to impose liability on individual members of senior management in respect of breaches of the regulations implied by the new regulator, the business activities will not be affected if the Government lack the powers to do anything about them. The Minister is well aware that in previous discussions we have come to the conclusion that the only real way in which one can get at that is to follow the money. Unless there are powers in the Bill, when it comes forward, to block non-compliant services, and

particularly to stop the flow of money, it will not be effective. I hope that message will be learned and taken forward.

The noble Lord, Lord Anderson of Ipswich, raised an important point about the fit with the EU e-commerce directive. I am sure the answer to this is that it cannot be answered, but the issue is clearly there. The e-commerce directive constrains the Government's ability in this area. Unless they have a way forward on this, we will not be able to get far beyond the boundaries. I will be grateful for any thoughts that the Minister might have on that.

On general points, the right reverend Prelate the Bishop of St Albans was right to pick as his analogy the parallel between the internet and open spaces, and how we are happy to regulate to make sure that open spaces are available and accessible to people. We should think hard about that helpful analogy in relation to the internet. I am also very grateful to my noble friend Lord Knight of Weymouth, one of the few people to point out that we all believe that the sunny uplands of the internet—the safe places in which we gambol and play—have always been a fantastic resource for those able to access and use them. Of course there are dangers, and it has been a bit of a Wild West, but we have undoubtedly benefited from the internet. We must be very careful that we do not lose something of value as we go forward.

I take it from what the White Paper says that it is now clear that there is sufficient evidence from authoritative sources of the harms caused by social media to justify statutory action. Indeed, the White Paper accepts that voluntary self-regulation in this area has failed. I think that is right. However, we need to bear in mind that there is a lot going on. For example, we are still waiting for the Law Commission to finalise its review of the current law on abusive and offensive online communications and of what action might be required by Parliament to rectify weaknesses in the current regime. From earlier discussions and debates, I also anticipate that more legislation will be required to eliminate overlapping offences and the ambiguity of terminology concerning what is or is not obscene. I hope we will have a clear view of what is or is not illegal in the virtual world. It is easy to say that what is illegal in the real world should be illegal in the virtual world, but we now know enough to anticipate that changes will be required to get our statute book in the right order. However, if it is clear what is illegal and can be prosecuted, am I right in thinking that the problem is about how to systematise the drafting of effective legislation for those affected by fast-moving, innovative services on the internet? The software of social media services changes every week, perhaps even more often—every day—and, as many have said, it will be very difficult to find the right balance between innovation, freedom of speech and expression, privacy and the harms that have been caused.

We come back, then, to the very basic question: how do we regulate an innovative and fast-moving sector, largely headquartered outside the UK, and what tools do we have available to do it with? It is true that the technologies in use today represent only 10% of what is likely to be introduced in the next decade or so. How do we future-proof our regulatory structures? That is why the idea of a duty of care is so attractive. Like my noble friend Lord Knight, I acknowledge the work of the Carnegie UK Trust on this, in particular that of Will Perrin and Lorna Woods. There is an earlier legal principle in play here: the precautionary principle that came out in the late 1990s. Its strength lies in requiring a joint approach to as yet unknown risks and places the companies offering such services in the forefront of efforts to limit the harms caused by products and services that threaten public health and safety, but always in partnership with the regulator, to make this public space as safe as the physical space, as the analogy would run.

We support the Government's proposals for primary legislation to place a duty of care on the social media companies to prevent reasonably foreseeable harm befalling customers or users and to build in a degree of future-proofing that encompasses the remarkable breadth of activity that one finds on these social networks. Having said that, it is important that we think hard about the regulator. This is the point I wanted to come back to. Under a duty-of-care approach, a regulator does not merely fine or sanction but plays an active role to help companies help themselves. It would be perverse not to utilise, for example, the experience and expertise of Ofcom in these earlier stages because it already has a relationship with so many of these companies. I hope that the lessons learned by the Health and Safety Executive over the years will also be tapped because there are other examples, which we will come to.

A few detailed points raised in the debate should be at the forefront in the Minister's summing up. One is that we do not know enough about the practicalities of physical human monitoring—a point raised by my noble friend Lord Haskel. Here, transparency must be the key. Do we really know what goes on in what we do? If it is all done by automated screenings and robotics, and there is a limit on physical human activity, we will never get to the point where we can rely on companies sufficiently. This is an important area, and of course this is before we start raising issues about the dark web, as my noble friend did.

As others mentioned, we are still not clear about what the real issues are between harmful and illegal content, particularly the contextual issues raised about questions of harm. Clearly, as raised by the noble Viscount, Lord Colville, there is the danger of a chilling effect on innovation and development, and I hope that will be borne in mind. We also have to think about the economic and social disruptions. These activities may well be social in terms of social media but their impact on the whole of society is very important and we need to make sure that the rules and regulations are in place for that.

With regard to the regulator, there is also the question of what other regulatory functions there should be. When we get to the proposed Bill, we will need to spend some time exploring the boundaries between the ICO and the new regulator, and if it is a new regulator, how that boundary will work with Ofcom. I am sure that point will come up later, so it may not need a response today.

[Lord Stevenson of Balmacara]

A number of noble Lords mentioned addiction and I have a lot of sympathy with that. I do not think that we have really got to the bottom of the issues here. Addiction to gambling is pretty well known about but gaming is becoming increasingly common in discussions about addiction, and the noble Viscount was right to raise it. There is not much in the White Paper about the research, development and educational work around all this activity. Perhaps the Bill will contain more about those issues once further development and discussions have taken place.

As my noble friend Lord Puttnam said, research on its own, and support for education about the technologies, is not really what we are about here. Both he and my noble friend Lord Knight pointed out that knowledge about the technology does not get you to the point where you understand what the information that you lack is doing to your perception of the world and your views about how the world is going. We need to educate and train people and offer them support, whether they are vulnerable or not, so that they can realise when the facts have been distorted and what they think is true is in fact misinformation. That is a completely different approach and I hope the Minister will have something to say about it when he responds.

This is such an interesting and complex area that we should spend more time on it than has been available to us thus far. The idea of pre-legislative scrutiny of the Bill, and certainly more discussion and debate, is attractive. I hope it finds favour with the Minister.

8.19 pm

Lord Ashton of Hyde: My Lords, I genuinely thank all noble Lords for their contributions. I echo what the noble Lord, Lord Stevenson, said about the quality of the speeches. There is much to say and I will do the best I can to be clear.

I again make the point that this is not a Second Reading debate. I am not here to defend every word in the document. We are approaching this issue in a genuinely consultative way, as I think we have done from the publication of the Green Paper onwards. However, there is one thing that we are not prepared to compromise on: we do not think that the status quo is acceptable, and we believe that the public support us in that.

We are interested in people's views and the consultation is taking place at the moment. As I said, there have already been over 1,000 responses. There tends to be an initial barrage of responses. They then tail off a bit, and the more considered ones, with the benefit of research, come at the end. Therefore, we think that there will be a significant amount of consultation. We intend to undertake research during and after that period, based on the consultation, and I, along with my officials, will be very willing to talk to noble Lords about this issue outside the Chamber.

Regarding the potential chilling effect on SMEs of the proposed legislation, I would like to say something about the DCMS. Its responsibilities have grown enormously. We now represent sectors that produce one in every £7-worth of the goods and services produced in this country. We are absolutely concerned with and supportive of innovation and growth. Although we think that this regulation is necessary, we are very concerned that it should be proportionate and risk based so that it does not in any way stop the engine of growth that has taken place over the last few years, particularly in the digital sector, where the growth has been significantly higher than that of the economy. We are undoubtedly a world leader in that respect.

The DCMS also represents culture and the media, so we are concerned with our liberal democratic culture, freedom of expression and the press. We therefore have to achieve a difficult balance. It is interesting that both ends of the continuum have been expressed tonight—that is, noble Lords have alluded to the fact that this is a broad-ranging document but some have said that it does not cover a number of pet harms that they are interested in. Achieving the aims will be difficult but absolutely possible. I will come on to talk about how the harms relate to the duty of care, which I hope will be reassuring. I reiterate that, in replying to the individual points made by noble Lords, I guarantee to take them back to the department and think about them, and I will write to noble Lords if I do not get to the end.

Although this is an important part of the battle against internet and online harms, it is also part of a wider mission that we are undertaking. We want to develop rules and norms for the internet, including for protecting personal data, supporting competition in digital markets and promoting responsible digital design. That is why, on page 31 of the White Paper, we have specifically indicated the areas that we are excluding: areas that are either regulated elsewhere or addressed by other parts of the Government's activities. This may or may not end up with DCMS, as the noble Lord, Lord Brooke, predicted. That these online harms are addressed is more important than where they end up residing.

I return to the list of harms on page 31 of the White Paper. The noble Lord, Lord Griffiths, contrasted it with the harms outlined in the Plum report. That was commissioned by my department as part of the evidence that will support the online advertising review announced by the Secretary of State earlier this year, as well as the Government's response to the Cairncross review. These lists were therefore produced for slightly different purposes.

Generally speaking, we know that the list of harms in the White Paper will not incorporate every harm that every person is interested in, or that exist on the internet. We want in the duty of care to tell internet and tech companies that they can no longer say, "This is not my problem". They will have to look at the harms and will have an active duty to educate themselves about the potential harms that their website or app, for example, produces. Even if these are not delineated, it will not be an excuse for a company to say that they are not on the list. We could have had a list of harms that we thought encompassed everything, but that would have been guaranteed to be out of date in three nanoseconds. The duty of care is there to futureproof this legislation as much as possible.

As I said, we have not included harms that have already been dealt with by other initiatives. I say to the noble Lord, Lord Haskel, for example, that we are not covering the dark web; that is dealt with under a

separate programme by the Home Office. Where I do agree with him is that competition law itself will need to be looked at, just as big companies in the past have been addressed by it. We will not do it in this White Paper but, as he will know, the Furman report on digital competition outlined that there is insufficient competition in the digital economy. We will be responding to that soon. The noble Lord also asked about international co-operation and what steps we are taking. During the period between the consultation and our response to it, we will be looking at a concerted effort—a programme, as it were—on international co-operation. We agree that it is important, so we will not do it on a piecemeal basis but will try for a proper strategy. That is one piece of work that must be done.

The noble Lord, Lord Colville, talked about the need for a focused definition so as not to inhibit free speech. We are absolutely focused on that; we believe in it. The regulator will issue codes of practice setting out clearly what companies need to do. If the evidence changes and new harms are manifest, the regulator can react and issue guidance but we will have to make sure the legislation itself is very clear about free speech. We are giving the regulator a duty to have regard to privacy and people's rights under, for example, the GDPR. That will be absolutely within the regulator's remit.

The noble Lord, Lord Brooke, talked about health. We will take on board his suggested title for the new legislation. We are worried about health too, so my department has worked very closely with the Department of Health and Social Care. As noble Lords know, the ex-Secretary of State for DCMS is now running that department and speaks frequently on these matters—in fact, he did so today. We have cited the Chief Medical Officer's advice on screen time and included advocacy of self-harm among the list of harms. We take these issues on board. One of the features we have incorporated in the White Paper is safety by design. [*Interruption.*] I apologise—the digital part of my portfolio is intruding on me. Safety by design means that all harms, including those related to health, are included, if it is reasonable to take account of them.

The noble Lord, Lord McNally, and the noble Baroness, Lady Benjamin, wondered if we have the flexibility and nimbleness to stay ahead of technology and regulate effectively. We will establish a regulator that will have the skills and resources needed to issue guidance on a range of harms. I take on board everything that noble Lords have said about resources and I will come to that later. We will consider the case for pre-legislative scrutiny, but I must say that at the moment—this is not a commitment or an indication of official policy—we are also very conscious of the need to act quickly. We have consulted on the Green Paper and we are consulting on the White Paper. We are thinking about pre-legislative scrutiny—I know the noble Lord, Lord Puttnam, is an expert on that—but we have not made a decision on it. Whatever happens, there will be plenty of consultation with noble Lords.

We agree with the other point made by the noble Lord, Lord McNally, about coherence across Whitehall. There is a need for coherence on regulatory functions and between departments. We are consulting on who the regulator should be and I take on board noble Lords' views on that. The departmental lead is DCMS, but it is a joint White Paper, so the Home Office is taking a keen interest in this. As I said before, at the moment there is no prospect of us changing that and I think we are well placed in terms of both knowledge and enthusiasm to drive this forward. I have been told that the Secretary of State has made a good impression so far with his advocacy of this White Paper.

The noble Lord, Lord Anderson, spoke of the need for government to declare boundaries for companies to adhere to, and said that there is currently a democratic deficit, with large, foreign companies often setting the rules. My noble friend Lord Kirkhope also mentioned this. In the White Paper, we are consulting on the role of Parliament in relation to the regulator and, in particular, to the codes of practice it will issue. As I said, we will not provide a rigid definition of all the harms in scope, but we will ask how far Parliament should be involved in the individual codes of practice and to what extent the regulator should be accountable to Parliament—in the way that Ofcom is, for example. We are very supportive of that.

On the regulator, I know that some noble Lords have suggested Ofcom. Obviously, we are consulting on whether we want a new regulator from scratch, an existing regulator or a combination of the two. Obviously, I agree that Ofcom would be a strong candidate if an existing body is chosen, and the White Paper recognises that.

The noble Baroness, Lady Grender, mentioned AI. We mention it vis-à-vis transparency. The regulator will have the power to ask what the impact is, as the noble Lord, Lord Stevenson, said. I take his point about the further need to look at AI and some of the issues surrounding it. We would be interested to wait; it will certainly come in time. It is one of the first areas that the Centre for Data Ethics and Innovation is looking at, so we would be interested to hear what it says about it.

My noble friend—sorry, the right reverend Prelate the Bishop of St Albans, who is of course a friend because for some reason we seem to see quite a lot of each other on various issues—talked about gambling, as did the noble Viscount, Lord Colville, and particularly about addiction. The right reverend Prelate mentioned that the regulator needs significant powers and independence to deal with some of the largest companies in the world. He asked if it could be envisaged that some companies could have their licences revoked. That is exactly one of the questions we have asked in the consultation, along with other significant powers of blocking sites and business interruption. So within our suggestions we are talking about pretty draconian powers, but they will be proportionate.

For example, the right reverend Prelate mentioned that the maximum fine at the moment has been £500,000. That is because that was the limit that the regulator—the ICO in this particular case—had. If we follow the GDPR's lead, it would be 4% of global turnover. Facebook had a turnover of $55 billion, so the fine could potentially go up from £500,000 to $2.2 billion. More important than that is the other suggestion we made about possible personal liability for senior executives and some of the other things I mentioned. We are

[Lord Ashton of Hyde]
absolutely conscious that enforcement is a crucial issue in setting up an effective regulator, particularly when so many of these companies are largely based abroad. Another thing we could consider is personal representation in this country, as mentioned in the GDPR.

As far as gambling itself is concerned, we have also tried to avoid duplication, so we are talking about not gambling specifically but of course, as I mentioned before, harms generally. Internet addiction will definitely be in the White Paper's scope.

My noble friend Lord Kirkhope talked about self-regulation, which he disagreed with. We agree that self-regulation has not worked. It is a good start, and we would expect the regulator to work closely with companies and organisations such as the Internet Watch Foundation in producing its codes of practice. The regulator will wish to learn from these organisations. As I said right at the beginning, we think self-regulation has not worked sufficiently. That is why we have decided to establish an independent regulator.

The noble Lords, Lord Puttnam and Lord Knight, both talked about the democratic issue and electoral interference. We talk about disinformation in the White Paper. That is clearly in scope. Specifically electoral matters will be left to the Cabinet Office, which will soon publish a report on what it is going to do. Indeed, I believe that my noble friend Lord Young is answering a Question for the Cabinet Office tomorrow about that exact issue. I mention that merely to give noble Lords the chance to ask him.

Briefly, because I have not got much time, I will talk about a very important point which many noble Peers have mentioned, and that is the media literacy strategy. We understand that regulation is one thing, but making people aware of what is needed in the modern world is very important. We have committed to developing a media literacy strategy, including major digital players, broadcast and news media organisations, education sector researchers and civil society, to ensure a co-ordinated and strategic approach to online media literacy, education and awareness for children, young people and adults. We want to enable users to be more resilient in dealing with misinformation and disinformation—including in relation to democratic processes—ensure people with disabilities are not excluded from digital literacy education and support, and develop media literacy approaches to tackling violence against women and girls.

I am running out of time, but I want to be very clear about disabilities to the noble Baroness, Lady Hollins. We will be considering those. I will take back what she has said in detail, absolutely take it on board and definitely consult.

Finally, I was very pleased at and grateful for the support of my noble friend Lady Howe of Idlicote. As her speech went on, I was waiting for the "but", and it sort of came. We agree that filters can be very useful for parents. The online media literacy strategy will ensure a co-ordinated and strategic approach. It will be developed in broad consultation with all stakeholders. As far as the online age verification is concerned—which I can confirm will come in on 15 July—I know that there are issues, which she has discussed both in the Digital Economy Bill and also individually with me. We have decided that a review will take place, so we are not going to be including this, but I absolutely take on board the points she has made and will ensure that they are taken back.

There are a number of other points. I will write to noble Lords, as there are too many to mention. There are those—the noble Lord, Lord Storey, mentioned some of them—who say that because the internet is global, no nation can regulate it. If we have a strong regulator with a sensibly defined legislation that follows the money, as the noble Lord said, then I do not agree; I think it can be regulated. We will do our best to ensure international support with that. We are well placed to be the first to act on this, and to develop a system of regulation that the world will want to emulate. The White Paper begins that process and delivers that, and I commend it to the House.

Motion agreed.

UK Innovation Corridor

Question for Short Debate

8.43 pm

Asked by ***Lord Haselhurst***

To ask Her Majesty's Government what assessment they have made of the transport infrastructure needs of the United Kingdom's Innovation Corridor (London, Stansted, Cambridge); and to what extent the current infrastructure limits that region's potential to contribute to the nation's wealth.

Lord Haselhurst (Con): My Lords, I apologise for detaining your Lordships at this hour. I declare an interest: I am the unremunerated chair of the West Anglia Taskforce, and have been a user of the West Anglia line for more than 40 years. On 6 March, my right honourable friend Priti Patel staged a debate in the other place about transportation in Essex generally, but she did not dwell on the issues that I wish to put before your Lordships' House this evening.

The West Anglia line denotes a corridor at the fringe of what is ordinarily believed to be East Anglia, because it comes out of north-east London into the upper Lee Valley, into Hertfordshire and Essex and then Cambridgeshire, and is perhaps not seen by many as true East Anglia. It is, however, a very important line. If I dare to quote myself from the report that the task force published in 2016:

> "The West Anglia Main Line corridor is vital for the UK economy. London and the East of England are two of the fastest growing regions in the UK, and the West Anglia Main Line links them together. The railway is essential for bringing jobs, homes and businesses together".

That is why it was felt more demonstrative to describe it as the innovation corridor of the UK.

If I may give a little history, in 1985 the decision was taken that Stansted should become London's third airport, ending a long battle in which I was on the losing side. Although the term "integrated transport" was very much in vogue in those days, nobody saw fit to apply it in this instance by ensuring that the rail line was made fit for purpose if it was to serve an international

airport. Regrettably, action on a proper railway linking Stansted to central London has not been undertaken by any subsequent Government and the problem has of course got worse. The regret which people who were on the receiving end of all this perhaps felt about disadvantage was all the greater for knowing that 20 years earlier in the 1960s, there had been a four-track railway in existence but it became a two-track railway on the advice of Dr Beeching. One does not have to be a sophisticated railway engineer to know that it is very difficult to operate both fast and slow trains on a two-track system. The only places where one train can overtake another are Harlow Town and Broxbourne. That does not of itself lend flexibility to the railway system.

Winding forward, we find that business is burgeoning on virtually the whole length of the route. At the northerly, Cambridge end, there is a tremendous concentration of high-tech industry. There is the biomedical campus at Cambridge, there is the airport and there is a host of businesses which are creating employment, drawing people into the area to fill the many vacancies that exist. Not only is industry becoming more important but the passenger numbers—people commuting and using the railway in any one of a number of ways—have vastly increased, putting pressure on the area. The population is growing still more, so there is continuing demand for more housing.

Stansted Airport has now achieved a throughput of over 28 million passengers per annum and the airport is proud that 50% of the people who come do so by some form of public transport. That is to be commended but, again, it puts a strain on the railway system. Successive Mayors of London have also proved ambitious in wanting to control and expand the inner London rail system to achieve a metro-style train service. This is also difficult to fit in with a railway that has to cope with medium destinations and the very outer destinations. One has to report that few freight paths have been created, despite the fact that Stansted Airport has become a major depot for the likes of FedEx and UPS.

All these demands on the railway simply cannot be met by a rickety, two-track system. Everyone, but everyone, is dissatisfied with the situation which has now arisen—and, at the moment, it shows no sign of getting better. For a while, we thought that the new dawn had arrived, with the emergence of the Crossrail 2 project. I am wholly supportive of this scheme. The project is vital for London, but it also provided the opportunity to boost the prospect of four-tracking on the railway between Tottenham Hale and Broxbourne, which would have opened up great possibilities. Unfortunately, the delay to Crossrail 1 is having a knock-on effect and creating renewed uncertainty about the timetable for Crossrail 2. I implore the Minister to recognise that doubts over Crossrail 2 really must not be allowed to mean that attention to the limitation of the West Anglia line is going to be put on hold. If that is to be the case, two very serious problems will arise for the Government.

The first is that Stansted, which has permission to use its facilities up to a level of 43 million passengers per annum, compared with the present 28 million, is the only airport in the London system with sufficient capacity to cope until further runway capacity is provided. As we seem to find any number of transport schemes where delays occur, I am dubious about the confidence with which Heathrow says that its third runway will be available by 2025. I suspect that it will be later than that. So the only place where new services coming into London can go is Stansted. The airlines are, understandably, very concerned about the quality of the connection to the city and pressure is being exerted. The Manchester Airports Group, the airport operator, is now very concerned about how the problems of the railway line can be overcome. Also, how are we going to get people to fill all the 5,000 or more jobs that are going to be created in the next few years? They will not all be found locally; many will travel from London and the means of doing that has got to be facilitated.

The second problem may seem more minor. Junction 8 on the M11 was the original access to this growing airport and remains important. The decision about the airport was made before a decision about where to put a motorway services area on the M11, and it was then chosen to do it on the same roundabout. I appeared at the public inquiry with the then Member for Hertford and Stortford to object to this. Our pleas were turned down. We were told that we did not know anything about it; the department had the experts; everything was going to be all right. Unfortunately, the whole thing was blocked very quickly after it had opened. More money has had to be spent to try to change the configuration of the roundabout and now even more is going to have to be spent. The simple answer would be to move it, because the congestion problem will not be overcome easily. With more housing planned for the area, the worry is that an inspector conducting an examination of the local plans of some of the immediate housing authorities would ask whether they had taken sufficient account of the capacity of this key roundabout to sustain their plans. That would be a disaster for local authorities.

There could be other solutions, to some extent. It would be churlish of me not to acknowledge that there are new trains, except they will not be able to perform to their full capabilities on a track system which has insufficient capacity. Digitalised signalling may mean that more trains can be put into the system, but that does not resolve the problem of the slow and the fast. There are 82 crossings on this railway line between London and Cambridge. Perhaps some of them could be weeded out. Passing loops could possibly be created to provide a few more overtaking opportunities. The airport tunnel is already constrained. There is also the question of whether or not more services might go in to Stratford, taking some of the pressure off Liverpool Street. If track capacity cannot somehow be expanded, even by a small amount, before extra tracks are provided, the only other answer is fewer trains or fewer stops. This would lead, I believe, to a battle royal between the different interest groups and the Secretary of State would find himself an uncomfortable adjudicator. Before it gets to that state, we must have facts on the table—although I recognise that even studying options costs money for Network Rail. Every possible intervention should be assessed for what it could achieve and at what cost, because that is the only way we will be able to persuade alternative funders to come in, for which I know Sir Peter Hendy would be very grateful.

[Lord Haselhurst]

I know that the Government have been persuaded to undertake so many projects but in the end a choice has to be made. I hope that tonight I have gone some way towards persuading the Government how much rests on reducing the restrictions on the UK's innovation corridor.

8.55 pm

Lord Berkeley (Lab): My Lords, I am very grateful to the noble Lord, Lord Haselhurst, for this debate, because a number of colleagues and I have been discussing the title, "innovation corridor" and some of us thought it was the east-west railway from Oxford. I am obviously proved wrong and it is a much better corridor from London to Cambridge via Stansted, and probably a bit further than Cambridge as well. The noble Lord made some really powerful points about the third-rate status of that line; it has been like that for 60 or 70 years. I remember going up it on a steam train as a student and it was very bad in those days, although it has had more tracks since then.

The noble Lord mentioned that the roads are congested and that there is a continuing problem with emissions. Of course, the Government now have commitments to carbon reduction, but we need a massive reduction in the carbon associated with transport in particular. It was interesting to hear the noble Baroness, Lady Vere, discussing bimode trains last week. The Government have committed to getting rid of diesel trains by 2040 but bimode trains with diesel engines are apparently exempt—presumably except when they run diesels. I can see a time when we are going to be moving towards electric cars, which will hopefully reduce some of the traffic jams the noble Lord was talking about, but there has to be a decent passenger service to go along with that.

There are some new developments on freight which should help. These involve high-speed freight in what are now no longer required as passenger trains—electric ones, obviously. I think that the first service will probably start between London Gateway and Liverpool Street. Customers are very interested and there is money there. Network Rail needs to provide access to the stations, but the key is that the customers want it and it will take some of the road freight congestion off the parallel roads, in this case and many others. Of course, it is very difficult to conceive how long-distance freight in the road freight industry can achieve the carbon reductions, because the weights are so big and the technology for battery lorries is not really there yet.

The innovation corridor needs to start at London and go beyond Stansted to Cambridge, and to Ely. The whole railway sector there is pretty bad and I can see demand going up, as the noble Lord said, quite significantly. I look at rail access to the four main London airports—Heathrow, Gatwick, Luton and Stansted—and all apart from Stansted have four tracks on part of their route into London. It is not on all of it, but it does allow, as the noble Lord said, some fast trains to overtake the slow stoppers.

When Crossrail opens, they will probably have to get rid of the ridiculously priced Heathrow Express, which I think is still £22 for a single now, compared with £3 or £4 on the Underground; it is somewhere in between on TfL trains. The same should happen at Gatwick, because on the Gatwick Express and the Southern services the fare structure is incomprehensible to most people, particularly visitors to this country, and there are so many trains that you do not need the special ones. However, you need some fast services, not just from the capital city but from other places as well. I hope that we can get that to Stansted as well, but as the noble Lord said, it is not just about the track but the tunnel to the airport itself.

There is also a problem around Cambridge, because of the enormous growth in demand, as we know. There are lots of small railways around there which could have services, possibly with a few chords built here and there, to help the communities get into Cambridge to work; that would reduce the traffic congestion in Cambridge itself. Four tracks are therefore essential, as much as we can, between London and the airport. From what I have heard, having talked to some engineers, it is not that difficult. I appreciate that there are level crossings, which will have to be sorted out, but there is space to do it, at least for a good length so you can overtake the slow trains.

That will not happen without some pretty strong pressure from the local authorities all the way up the line, and the users. I understand that Cambridgeshire County Council and the Cambridgeshire and Peterborough Combined Authority are keen for public transport offers to Cambridge and Peterborough, an area which stretches as far as Wisbech, March, King's Lynn, Thetford, Stonemarket, as well as Stansted Airport and Hitchin. There are lots of small routes that could be reinstated, including to Wisbech. The biggest problem is at Ely: stopping trains going north to south—largely the passenger trains—which conflict with the big freight train flows from Felixstowe to the Midlands. A plan to improve that has been around for about 40 years but nothing has been done about it. It is not that expensive but something is needed to enable the freight trains from Felixstowe, whose capacity is constrained by this bottleneck, and passenger trains that may be going on to Wisbech, to get through Ely and to allow the traffic to cross the level crossing there, which is always a problem.

The other issue, which the noble Lord touched on, is new developments. There is one at Mildenhall, a former RAF station. So many of these developments provide lots of lovely housing but with no public transport at all. There has to be a station if possible, and, if not, a commitment to bus services, although they do not usually last very long. Therefore, the whole area needs a good looking at, with the local authorities, to improve the corridor.

The climate change issues are serious at the moment, and I hope that the Government will maintain and strengthen their targets. However, they have to have a credible means of doing so, which is not always there at the moment. Department for Transport figures show that congestion is likely to grow by 55% by 2040—the cut-off date for diesel trains and a few other things—but it is hard to think how congestion can get 55% worse in many places. Maybe the Minister has a solution to that. We have to have a solution, but rail is probably the only one that will work.

This is an innovation corridor. It could be a catalyst for doing it all together: a modern, integrated, green transport system for passengers and freight. I hope that the Government will start taking it seriously. In the meantime, I hope that the Minister will take on board some of my comments about the new type of freight, which is completely different. We must apply it to passengers and freight and get some of them off the road if we are to have any chance of achieving the targets.

9.05 pm

Baroness Brown of Cambridge (CB): My Lords, I, too, thank the noble Lord, Lord Haselhurst, for securing this short debate on an important topic. I declare my interest as a resident of Cambridge.

I draw the Minister's attention, and that of the House, to an important proposal developed by the Cambridgeshire and Peterborough Combined Authority and its leader, James Palmer, for the Cam Metro, and ask the Minister to support this innovative and ambitious plan. I am told that there are more jobs than people in Cambridge, and I know from experience that the university, Cambridge colleges and the science parks that ring the city are finding it increasingly difficult to attract bright young researchers to Cambridge because of the cost of housing in the city and the poor transport infrastructure. Researchers with young families are being forced to live further and further out of Cambridge in order to afford appropriate homes, and face long commutes, increasingly beyond reasonable cycling distance, by car and bus.

This is not healthy for the city, which is surrounded by blocked roads each morning and vehicles contributing to poor air quality and climate change. It is not healthy for families, when commuting steals so much family time, and it is not healthy for the colleges and the accidental exchanges that can lead to new ideas when young academics no longer participate in college life. The traffic in Cambridge is also making it a less appealing destination for tourists, who make an important contribution to the local and national economy.

The combined authority is developing plans for the Cam Metro: a 160-mile route including six miles of tunnels under Cambridge. It is expected to create 100,000 jobs and support the building of a further 60,000 homes in the area, while taking 44% of cars and 18% of buses off the roads in and around the city. It will link the university, science parks, including Addenbrooke's Hospital and the Royal Papworth Hospital and the biomedical campus, with railway stations and villages out to St Neots and developments at Mildenhall and Haverhill.

The Cam Metro will be innovative. My noble friend Lord Mair, a world-leading civil engineer whose research covers tunnels and stability, has been involved in developing plans for the tunnels, which would showcase sensors and techniques developed by his research centre. The metro would be a fully autonomous, clean, battery electric-powered wheeled tram system running on a dedicated tarmac route, so avoiding the major costs of conventional tram and train infrastructure. The cost of the scheme is estimated to be about £4 billion—far cheaper than any other road or light or heavy rail solutions. It would unlock the important further growth of the region and be linked to east-west rail to support the London, Stansted and Cambridge innovation corridor.

I ask the Minister to offer the Government's support for this exciting and innovative plan, which would help to ensure that the region can continue to attract the best and brightest young researchers and their families to contribute to innovation and economic growth in the UK.

9.08 pm

Baroness Randerson (LD): My Lords, I start by thanking the noble Lord, Lord Haselhurst, for bringing this debate to the House today. It is an important issue.

The innovation corridor is an interesting concept and certainly does not lack ambition. Its stated aim, to compete with Silicon Valley, labels it as high in ambition. But it is important not to underestimate the complexity of the situation. This is already a thriving area: the fastest-growing area in the UK. It benefits from above average wages: it has a very high percentage of graduates and a high rate of job growth, and GVA per hour is 20% above the UK average. It is already attracting many innovative companies at the forefront of technology. In addition, it obviously offers a good and pleasant living environment.

So, on paper, it has everything to offer, and it is these kinds of innovative companies and workforce that we have to offer the world if we are ever as a nation to recover from the self-inflicted Brexit wound. I say that from the perspective of a person who very much hopes that we do not leave the EU—but, even if we were to remain in the EU, we have already done ourselves great damage as a nation.

At one end of this corridor is London, one of the world's great cities; at the other end is Cambridge, one of the world's great universities; and in the middle is Stansted, providing essential aviation links—essential because if one is to survive and thrive economically in the modern world, aviation is an important aspect of the mix.

But there are difficulties: corridors are much more challenging to develop than mere clusters. Reports on this concept have emphasised the complex governance and the number of local authorities involved along the length of the corridor. This was identified by Professor Enright as early as 2015 as a hurdle that needed to be overcome. As yet, there is no equivalent of Transport for the North for this area to bring the local authorities together.

The infrastructure challenges are various. There is the roads issue that the noble Lord, Lord Haselhurst, mentioned, and the rail issue that both he and the noble Lord, Lord Berkeley, emphasised; there is the need for up-to-date and cutting-edge telecommunications and ICT infrastructure; and there is pressure on housing. The brutal truth is that, unless these problems are addressed, all the branding efforts that have been made so far will not make the essential difference that we need. Addressing these problems needs funding as well as co-operation, and government is needed to provide leadership.

[Baroness Randerson]

For the rest of my speech, I will address specifically transport-related issues. It has already been mentioned that it is proposed that Crossrail 2 should provide additional tracks—the badly needed four-tracking that has been referred to—on the West Anglia main line to enable faster and more frequent services. The National Infrastructure Commission report in 2016 estimated that the West Anglia element of Crossrail 2 would cost £3.7 billion at 2014 prices—clearly more in today's prices. But it would enable and unlock the development of 80,000 homes.

Crossrail 2 is still at the early stages of consultation, and problems with Crossrail 1 have slightly taken the shine off plans for phase 2. However, if this corridor is to develop successfully, it is essential that Crossrail's current problems teach us lessons rather than allow the concept of Crossrail 2 to be buried. Further development is also needed at Stratford station, and along the upper Lea Valley.

When preparing for this debate, I thought back to a visit that the committee on which I sit in this place made to a science park near Cambridge. That involved us taking the train and getting off at Cambridge North station—a very successful new development. However, what was brought home to us at the time was the total inadequacy of the current rail line. The train was delayed that day. We waited for five or 10 minutes for it to depart for Cambridge—at which point an announcement was made that the train was not going to stop at half the stations it was supposed to stop at on the way. At that point, half the people on the train got off. They had waited unnecessarily; in fact, they had missed another train in the process. This was just one occasion, but it illustrates very clearly the unreliability of that line. A Network Rail report published in February this year recommended some detailed improvements to the line and recommended that the options should be developed to the strategic outline business case stage. Will these improvements go ahead and on what timescale will further development of the proposals go ahead?

Another issue that should be raised is that, alongside its other aspects, this is a job creation project. As the noble Baroness, Lady Brown, pointed out, this is an area of very low unemployment. When we visited start-ups in the Cambridge area during the meeting I referred to earlier, the heavy reliance on EU citizens for new personnel being taking on as staff was obvious. I am seriously concerned that an inadequate amount of skilled labour will be available at the highly skilled level required for jobs of this kind as a result of the Brexit issues we face.

Finally, I will raise the issue of Stansted Airport. It has great potential for more intensive use and will help to fill the gap that Heathrow is designed to fill but is not yet on stream to do so. Heathrow seems to be developing rather slowly at the moment—but if the rumours are right, we may move to the next stage of the process as a result of announcements tomorrow. We need Stansted to increase the number and availability of flights in the UK coming into the London area. I emphasise that, although Stansted does well in the number of people going there on public transport, it still suffers from a less than adequate train service. It advertises a 47-minute journey, but the average time taken is 54 minutes and some trains take more than an hour. There are 77 trains a day, but fewer on weekends and holidays. Basically, links to Stansted need to be improved along with the rest of the rail line. This needs to be a development fit for the 21st century, with modern solutions, passive housing and a reliance on rail, not road, if it is to be truly successful.

9.18 pm

Lord Rosser (Lab): My Lords, the good news is that I may take up fewer than the 10 minutes that I am allowed. Like other noble Lords, I congratulate the noble Lord, Lord Haselhurst, on securing this debate. He has had an invaluable and proactive involvement in promoting the infrastructure needs of the London-Stansted-Cambridge innovation corridor, not least through his role as chair, unremunerated, of the West Anglia Taskforce and the case made in its report for investment in rail to support growth. I wondered, given what the noble Lord said earlier—not about the confusion but about the fact that some people do not see the West Anglia line as necessarily being in what they would regard as East Anglia—whether it ought to be called the "West-East Anglia main line" to clarify the situation.

We have heard one word of caution and I am sure other noble Lords have had a briefing from the National Trust, of which I, along with many others, am currently a member. The trust has referred to the significant growth and infrastructure development planned for Cambridgeshire and the surrounding areas through the UK innovation corridor and the Oxford-Cambridge Arc. The trust goes on to say that without proper oversight or a comprehensive approach, the concurrence of two major development projects in the same region increases the likelihood that the developments will fail to protect nature, the countryside and the heritage of the whole region. A more specific concern is about Wimpole Hall and the grade 1 listed parkland in which it sits, which are apparently within both the UK innovation corridor and the Oxford-Cambridge Arc. It would be helpful if the Minister could give some meaningful assurances about the concerns of the National Trust, which has the support of a great many people for what it does, not least older people who are the group most likely to vote. Of course, major projects cannot be allowed to grind to a halt, but neither can we have a free for all for developers over what they can do and where in areas designated for expansion and development.

I shall repeat without apology what the noble Lord, Lord Haselhurst, says in his foreword to the West Anglia Taskforce report:

> "London and the East of England are two of the fastest growing regions in the UK, and the West Anglia Main Line links them together. The railway is essential for bringing jobs, homes and businesses together".

The taskforce's terms of reference were to improve connections to an expanding Stansted Airport and Cambridge from Liverpool Street and to encourage opportunities for economic growth along the route, including the expansion of services in the Lea Valley. Some provisions for service improvements, including

new trains, were contained in the franchise agreement for Greater Anglia, which the Dutch state-owned company retained in 2016 for another nine years.

The taskforce concentrated on practical and feasible recommendations on cost, impact and effectiveness, and particularly, as has been said, on the need for four-tracking of the line from just south of Tottenham Hale station to just north of Broxbourne station. This is the most pressing need on a line that already suffers performance and capacity-wise, under even the current volume of traffic, from being two-track, a problem that will remain for much of the rest of the line south of Tottenham Hale to nearly into Liverpool Street. Four-tracking of the stretch identified in the report will also be vital if the Crossrail 2 project is to go ahead. On that score, one hopes it has not been seriously blighted by the delays and cost issues now associated with Crossrail 1.

At the launch of the report in late 2016, the then Minister for Rail said that he was impressed by the level of support that the noble Lord, Lord Haselhurst, had gathered across the political spectrum from local government, national government in the form of the Department for Transport, London government and many companies and private individuals who had come together to support the report. The same Minister then told the Commons in a debate on 8 November 2016:

"The report also makes a clear and compelling case for action, so it is just the sort I want".

He went on to say that the report's recommendations,

"deserve careful consideration. We need to assess them against the case for investment across the network as a whole. The Government will now give the report the consideration it deserves, which will be a thorough and careful assessment, so that we can respond formally next year".—[*Official Report,* Commons, 8/11/16; cols. 538-9WH.]

I hope that in her response the Minister will be able to spell out precisely what decisions and actions on transport infrastructure in the London-Stansted-Cambridge innovation corridor the Government—including Network Rail, for which the Government are responsible—have taken on, and in the light of, the recommendations, including on four-tracking, in the taskforce report since that debate in the Commons some two and a half years ago, in view of the enthusiastic response to the report from the then Minister. We shall be able to see from the Government's reply to this debate whether that enthusiastic response from the Minister has been matched by actions as opposed to words.

9.24 pm

Baroness Barran (Con): My Lords, I congratulate my noble friend Lord Haselhurst on securing this debate and on raising and highlighting the role of the innovation corridor in our nation's economy. I thank all noble Lords for sharing their insights and—I think no one would disagree—unique expertise in this area.

Many noble Lords raised helpful challenges to the Government's response to this report, but perhaps it is a rare pleasure to be considering a report that deals with the problems of success. The innovation corridor is one of Britain's fastest growing regions. It is a hub of knowledge, with world-class universities and cutting-edge clusters of commercial innovation, advanced technology and bioscience. This combination is driving a vibrant, thriving economic success story—one that the Government support and will continue to support in future.

My noble friend has raised his concerns that transport infrastructure may become a barrier to growth in the area, particularly rail capacity on the West Anglia line given the likely continued growth at Stansted and Cambridge. However, as my noble friend is aware, trying to increase capacity on the West Anglia line is not easy without new infrastructure. I appreciate very much his range of suggestions about the ways one might do this. As noble Lords have noted, the railway is already at capacity with today's rail services, although measures are being taken to try to increase reliability and capacity. I am not sure I will be able to deliver quite the enthusiasm that the noble Lord, Lord Rosser, seeks, but I will do my best to set out the work that has been done.

The business case for delivering four-tracking along this route is expected to represent high value for money, if the rest of the proposed Crossrail 2 scheme is built. However, as a stand-alone proposition, analysis suggests that the scheme does not facilitate sufficient additional services to generate the benefits required to offset the capital expenditure. Given the uncertainty around Crossrail 2, we need to identify what can be done in the short to medium term to support growth on the line. I will share two examples with your Lordships.

First, to build on the work already undertaken, Network Rail hopes to undertake a study of the West Anglia main line that will sketch out options for future funders. Secondly, although we do not currently intend to develop a digital signalling scheme—that is difficult to say late at night—on the Anglia route for delivery in the current control period, the 2018 digital railway strategy identified it as a potential candidate for further consideration for delivery in the medium term, meaning in control period 7.

The noble Baroness, Lady Randerson, raised her concerns about progress with Crossrail 2 and the detrimental effects it might have on the West Anglia main line. She wisely reminded your Lordships' House of the importance to learn from other schemes in development. Here, I draw the House's attention to the recent publication by the Infrastructure and Projects Authority on this subject, titled *Lessons from Transport for the Sponsorship of Major Projects*. The department will consider the report's findings very carefully.

The Government remain focused on improving the affordability of the Crossrail 2 scheme. In its current form it comes with a large price tag and, as yet, no final decisions have been made. The Government have launched an independent affordability review, chaired by Mike Gerrard, which is making good progress, and the department and Transport for London received initial recommendations for further work on this. This further work is now completed and will inform the next steps of the project and the completion of the review.

Recognising the constraints on providing new infrastructure, as I have mentioned, in the meantime measures are being taken to try to increase reliability and capacity, not least the £1.4 billion investment in a brand new fleet of trains for every single service and

[Baroness Barran]
route that Greater Anglia operates across the entire network. The trains will be phased in during 2019-20, with the first trains running on the Stansted Express route from summer 2019.

A number of noble Lords raised concerns about the ability to support growth at Stansted. The Government are sensitive to those concerns and are working through our longer-term aviation strategy to make sure that the infrastructure needs of the aviation industry are met.

The important points raised by the noble Lord, Lord Berkeley, about carbon reduction and the potential to move freight from the roads on to the rail network were well made. I draw the noble Lord's attention to our recent strategy on the future of urban mobility, which has a big focus on carbon reduction and active travel.

I will mention some of the ways in which the department is supporting growth in this important corridor but, before I do that, I will respond to the noble Lord, Lord Rosser, about the points made by the National Trust. We are aware of the National Trust's concerns about the development of infrastructure in the corridor, and those delivering that infrastructure will engage with the National Trust during the consultation process and will continue working with it as plans develop to make sure that its views are taken into account. We were pleased to see that the National Trust acknowledged the work in the environment Bill to make sure that a net gain for biodiversity is part of such projects.

Recognising the importance of infrastructure in supporting economic growth and prosperity, the Government are providing significant funding to enhance journeys and connectivity. For example, we are upgrading a 21-mile section of the A14 between Cambridge and Huntingdon. This new road, which is due to be completed by the end of 2020, will cut a significant amount of time from journeys. We will also seek to cut journey times around Harlow by building new junction 7A on the M11—I hope your Lordships have a map in your minds—and will continue further investment on the M11 in future road programmes. I undertake to write to my noble friend regarding the issues he raised in relation to junction 8.

We also recognise the importance of rail as a key transport element connecting the region to its innovative business clusters and international gateways. We recognise that needs change as an area develops and so Network Rail has recently undertaken the Cambridge corridor study, which identified a series of infrastructure improvements to accommodate the expected growth across the railway in and around Cambridgeshire over the next 15 to 25 years, and will allow funders to make informed decisions about planning the network for the years to come.

The noble Baroness, Lady Randerson, asked where we were in the decision-making process. Obviously, these ideas are at a very early stage of development and the study does not make any assumptions about which organisation, if any, will fund the proposals, so it is too early for the department to say which schemes we will do and who might fund them. As soon as plans for that are available, we will share them.

Another example of development work we are engaging with in the area is the considerable interest and support for new stations in Cambridgeshire. The Department for Transport has partnered with three local partners—AstraZeneca, the Greater Cambridge Partnership and the Cambridgeshire and Peterborough Combined Authority—to fund Network Rail to design proposals for a new Cambridge south station, which would primarily serve Cambridge Biomedical Campus. The Government are also supporting Cambridgeshire and Peterborough Combined Authority with a £95 million investment over five years through the department's Transforming Cities Fund, which will transform connectivity in the combined authority through a range of investments in transport and infrastructure.

In response to the request by the noble Baroness, Lady Brown, for the Government to support the CAM scheme that is being developed, I will mention it to Ministers and make sure that they are aware that the plans are being worked up.

The noble Lord, Lord Berkeley, made the point that transport needs need to be taken into account when supporting housing growth in an area, and that is what the Government's Housing Infrastructure Fund is aiming to do. Two housing infrastructure funds from the corridor have been successful. One is the Docklands Light Railway scheme, which has been allocated £290 million, and the other is the Cambridge north-eastern fringe scheme, which has been allocated £227 million. Finally, we are supporting local enterprise partnerships in the corridor to improve transport links within the region.

In conclusion, while I recognise the concerns raised by my noble friend and other noble Lords around the West Anglia main line, I hope I have gone some way to reassure him that the innovation corridor is recognised for its contribution to the nation's economy, and while further progress is made with Crossrail 2, the corridor is being supported by significant investment in the interim. The aim of that investment is to improve connectivity and to deliver the vision of a more integrated, reliable, safe, reduced-carbon transport network that supports the continuing growth of the economy within the innovation corridor.

Lord Rosser: The Minister referred to the new trains, which, as I understand it, were part of the franchise renewal for Abellio in 2016. Although that is genuinely most welcome, do the Government accept that new trains have a limited impact on serious track capacity constraints on the West Anglia line, particularly at peak times, and that track capacity is a Network Rail matter? The Government are responsible for Network Rail and presumably can do something about it.

Baroness Barran: The noble Lord is right that to maximise the impact of new trains, one would need more track, but I hope that I have explained the limitations on doing that in the short term. Obviously, there are other advantages from new trains, such as improving the speed of journeys, but the noble Lord makes a fair point that one would need more track in order to maximise the impact.

House adjourned at 9.39 pm.

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